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Who Subscribes To Your Law Firm?

By John Chisholm

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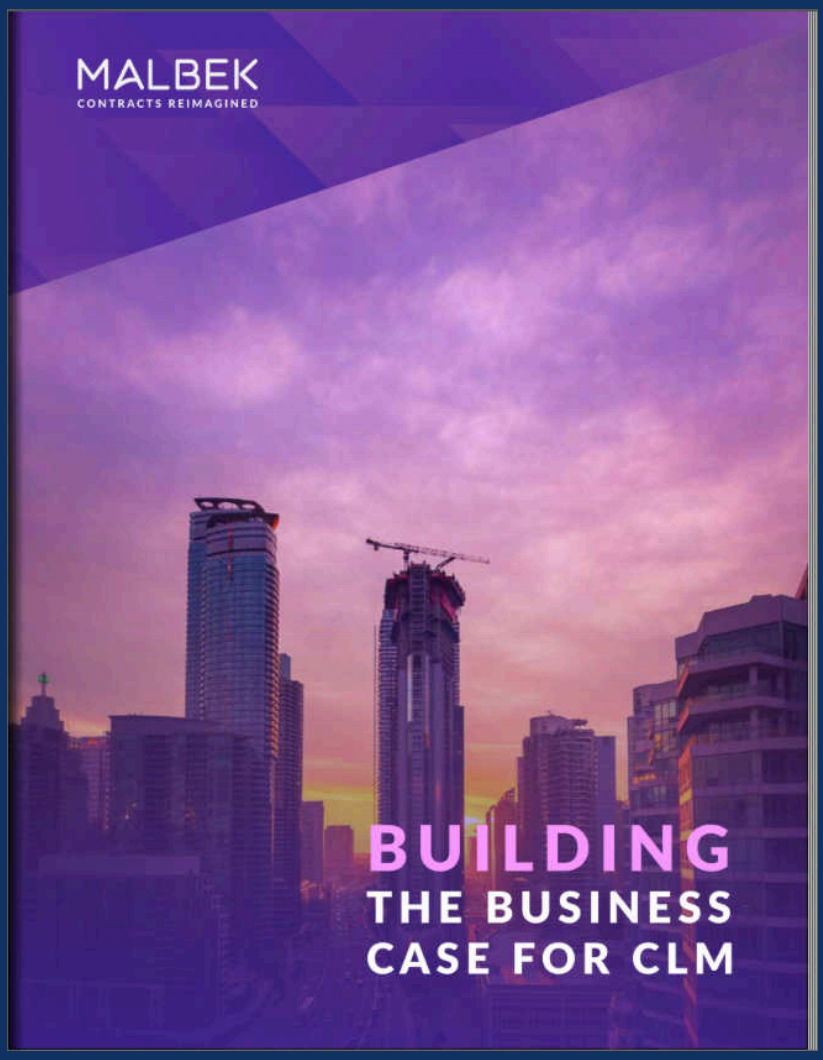

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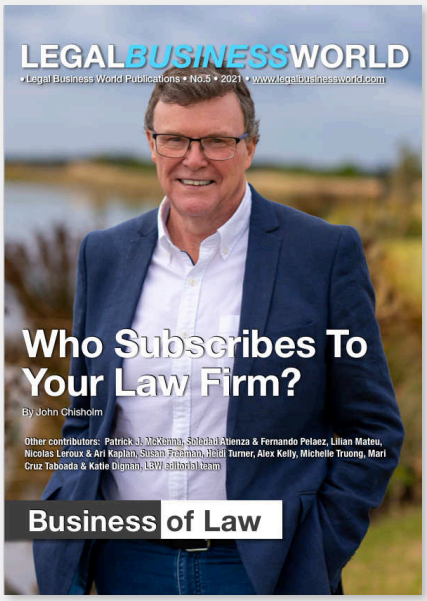

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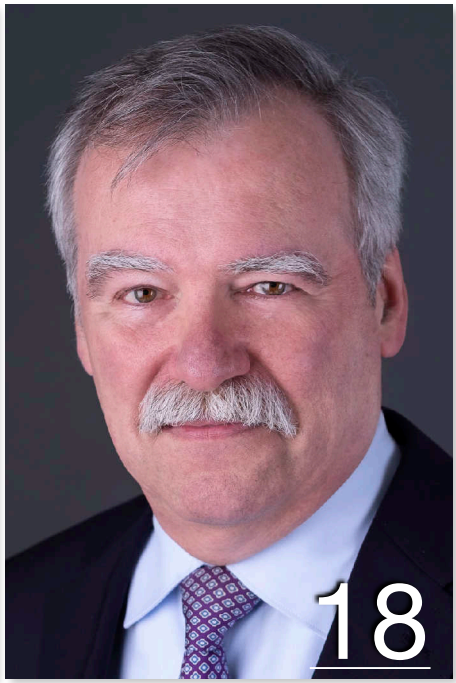

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WHO SUBSCRIBES TO

By John Chisholm, Director at John Chisholm Consulting and Co-Founder of The Innovim Group

"The subscription business model is taking the world by storm. Subscription-based companies grow much faster than their traditional counter-parts, the business tends to be less cyclical, the lifetime value of a customer is higher, and buyers seem to love them too." Mark Stiving.

Subscription models are not new. John Warrillow in his book *" The Automatic Customer: Creating A Subscription Business in Any Industry"* cites

YOUR LAW FIRM?

European map makers in the 15th century selling subscriptions to map updates. I wasn't quite around to experience those map makers but I do remember my parents subscribing to products and services such as a daily newspaper, magazines and of course their landline phone. Many years ago I even took out a gym membership- once! As a lawyer we used to pay Xerox a small subscription fortune to maintain and service our office photocopiers.

Take a minute to think of what you might subscribe to now. Maybe your mobile phone service; any number of TV offerings such as Foxtel, Apple TV, Amazon Prime, Netflix, Stan, etc; music streaming services such as Spotify, Apple Music, You Tube Music; Gaming Services; Cloud storage; Microsoft Office 365; Salesforce; CRM's; Zoom; Xero; password management services; gym memberships (not me); wine clubs (me). You might

even subscribe to a new car, annual eye care or a concierge doctor service?

The subscription list is almost endless and increasing daily as both start ups and traditional businesses work out how to turn their business into a subscription offering.

Why is the subscription model so popular with both providers and customers?

Mark Stiving, a US pricing expert, in his latest book *"Win Keep Grow"* (a must read for anyone serious about considering a subscription model) lists no less than 7 reasons why buyers love subscription models:

- Buyers buy the benefit not the product,
- Subscriptions are logical and straightforward,
- Subscriptions provide flexibility to grow,
- Subscriptions reduce risk,
- Subscription products are better,
- B2B customers can more easily calculate return on investment, and
- B2B accounting is more accessible and more beneficial.

And the reasons providers love subscription models according to Mark include:

- Faster growth,
- Higher lifetime value, and
- Investors reward subscriptions

Stiving, together with other pricing gurus such as Tien Tzuo, and my VeraSage colleagues and hosts of weekly radio show The Soul Of Enterprise Ron Baker and Ed Kless, believe almost any business model can be transformed into a subscription model-even professional services.

Ron Baker in this easy to listen to Law Chat webcast interview with Simon Tupman titled *The Firm Of The Future 2.0- Building Relationships By Subscription* particularly emphasises that subscription models focus much more on not only monetizing customer *relationships* and the lifetime value of customers, but make those relationships the central core of their business model. Other billing and pricing models that are still primarily *transaction* focussed tend to only give lip service to service delivery and the client experience. And therein lies both the opportunities and challenges for professional firms-including legal and accounting firms-successfully adopting a sustainable subscription model in their practices.

If we take a step back a few years one can find many examples of law firms adopting a form of subscription/retainer type models but often limited to one part of their practice perhaps and/or limited in scope and time. The limitations of these models mainly came about not so much because they were not profitable nor beneficial, but moreover because those firms generally:

- still adhered to a business model that leverages people x time x hourly rate and subscription models struggle to fit that model, and/or
- the individual KPI's in such firms emphasised and rewarded the "I" over "We", so again do not incentivise or cope with subscriptions-notwithstanding there maybe significant benefits to the firm as a whole.
- the individual KPI's in such firms emphasised and rewarded the "I" over "We", so again do not incentivise or cope with subscriptions-notwithstanding there maybe significant benefits to the firm as a whole.

Some of the more innovative practices in recent years have taken subscription models to a whole new level often adopting them exclusively or as a hybrid with other value based pricing offerings. Those practices tended to have been boutique specialists (subscription pricing like all forms of up front pricing works better with specialists than generalists) who have either got rid of the billable hour and time recording or never adopted them in the first place.

Owners of law firms in particular often bemoan the fact that when it comes time to sell their practices, the multiple $ offerings are nowhere near the value other businesses (including many bookkeeper and accounting firms that usually have higher incidence of recurring income) are paid. The prime reason for this? Traditional law firms do not have much if any recurring income and/or their practices are often people based rather than- or in addition to- systems and process based. As mentioned above and in the I books referred to, subscription businesses do attract higher sales prices and investment offerings- precisely because of their recurring revenues.

Why then wouldn't law firm owners-especially ones that have niche, specialised practices- seriously consider what they could offer to their current and future (and maybe different and better?) clients by way of a subscription model? One only has to look at the recent Zoom Legal IPO behemoth and its focus on the future of subscriptions as evidence that there is demand for such a model in law. Or Jeff Bezos's huge financial investment in US subscription based accounting firm Pilot. Summit CPA's virtual CFO Services. Jon Tobin's Counsel For Creators. Virtual brand strategy law practice K.Bennett Law LCC. Or the membership offerings of Legal Vision, the "Alliance" offering of Elevate Legal, trademarks firm Markster, or the communities offerings at View Legal.

Just like a move to value based pricing any law firm that is considering a move to a subscription based model, has to decide their purpose and strategy but also understand the 5 C's of value being:

1. *Comprehend* value to clients.
2. *Create* value for clients.
3. *Communicate* the value you create.
4. *Convince* clients they must pay for value.
5. *Capture* value with strategic pricing based on value, not costs and efforts.

It goes without saying that it is impossible to even try and comprehend the real value any true professional could provide to a client without first having a value conversation with that client. Equally a professional needs to properly scope what they can and cannot provide under any subscription offering before they even consider a price(s).

While subscription models are scaleable the challenge for a traditional firm that leverages people x time x hourly rate is, as mentioned previously, changing the focus from individual measurements and rewards to measuring and rewarding firm wide performance, to incentivise and promote real internal and external collaboration.

Like all transformations this requires a paradigm shift to a different mindset and

business model-one that genuinely does focus on customer relationships. Not all lawyers are willing to do this.

Are you?

About the Author

John Chisholm is a 3rd generation recovering lawyer, previously a partner, managing partner and chief executive of Australian law firms.

John established his own consultancy, John Chisholm Consulting, in 2005 to share his expertise and experience with professional firms who look to maximise their business performance. He now speaks, educates, facilitates, coaches and consults.

As a practising lawyer John was well placed to experience first hand both the benefits but also the drawbacks of the professions pricing their services solely by reference to time. He has worked with many professional firms (and their customers) around the world assisting them with both a mindset change, and the practical implementation and application of, moving towards a timeless pricing model.

In 2017 John co founded the Innovim Group www.innovim.com.au with fellow VeraSage Fellows Liz Harris and David Wells, an international advisory practice that equips knowledge firms to transform for success by helping them to understand the value they create and how to capture that value with strategic pricing.

John is a Senior Fellow of the VeraSage Institute, an international think tank of thought leaders and innovators for professional firms, Adjunct Professor of Law at La Trobe Law School, Fellow of the College of Legal Practice Management (US) and Distinguished Fellow Centre For Legal Innovation (Aus) 2019-2020. He has written numerous articles, papers and blogs on timeless pricing and has presented and spoken to thousands of professionals on the topic.

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Meet Karen Palmer, SME, Conscious Inclusion Company

By Heidi Turner, Director of Content at Conscious Inclusion Company

With a background in television news production, non-profits, and education, Karen Palmer is uniquely qualified to talk about the importance of psychological safety in the workplace. Karen's experience as a producer and manager in journalism, the founding director of operations of a charter elementary school in Brooklyn, NY, and an operations consultant led her to create a professional coaching practice where she supports leaders in building authentic and productive communication with their teams. Karen is also an advocate for Diversity, Equity, and Inclusion.

As an operations consultant, Karen focuses on providing direct assistance and counsel to support student learning and improve staff performance at elementary, middle, and high schools in New York State. In her coaching practice, she also works with leaders in business, law, arts, medicine, and the media. During her career as a television news producer, she won four Emmy Awards and shared a Peabody Award and a Headliner Award.

Karen has worked with numerous advocacy, social service, and educational organizations including the New York Women's Foundation, Human Rights Watch, and the World Science Festival. She currently leads workshops on psychological safety and moderates an ongoing series of panels that explore the intersections between race and food allergy.

Karen is a Subject Matter Expert for Conscious Inclusion Company, where she leads sessions on the importance of psychological safety in the workplace.

How did you move into coaching leaders and focusing on psychological safety?
I spent over 20 years working in television news. When I moved into serving non-profits, one thing that struck me was that many leaders in the non-profit sphere didn't have the same opportunities to develop their skills as those in the corporate sphere. They couldn't step into leadership from a place of confidence. They didn't have the same opportunities to get advice and support. And I felt like I could identify with that, from my own experiences as a leader. So, I started asking how I could provide the kind of support that I wished I'd had. That's what led me into coaching.

What is psychological safety?
The term "psychological safety" was created by Amy Edmondson back in 1999: she studies organizational behavior science at Harvard Business School. Psychological safety is a shared belief held by members of a team that the team is safe for interpersonal risk-taking. It's a sense of confidence that the team will not embarrass, reject, or punish someone for speaking up.

Edmondson said that psychological safety "describes a team climate characterized by …trust and mutual respect in which people are comfortable in being themselves."

Why is psychological safety at work important?
There's a lot that we're going through as a society right now, especially given the ongoing impact of COVID, continuing political tensions, and the racial reckoning in the wake of George Floyd's death. People need appropriate space and support to work through their feelings and thoughts. If there's one thing I'm hearing over and over, it's people saying when they go back to work, they don't want to be working the way they were before they left. Employees may be okay with the job itself, but they're saying they need to decrease the stress, or increase flexibility, or have their voices heard and respected in a way that they weren't before. Something has to change.

Google did a study called Project Aristotle where they looked at what made their most successful teams so successful. The biggest factor was psychological safety—the ability for any member of the team to get up, share an idea and know they won't be punished for it.

Team members believed they would be treated with respect. That was more important than anything else in determining a group's success.

People want to be heard, valued, and treated as equals, free from judgement or ridicule.

What are some important steps in fostering psychological safety at work?
Companies need to promote transparent communications and meaningful feedback between leaders and teams. Leaders need to ask people what tools and support they need to get their jobs done in a way that feels professional and satisfying.

Supervisors have to set and model ground rules of behavior that allow people to feel included and supported. Every workplace deals with internal conflict on a regular basis. It's all about how you handle it.

Since most of us are still working in remote or hybrid mode, leaders need to be intentional in connecting with employees. In most companies, before COVID, you'd meet at the water cooler, or bump into each other in the hallway, or meet for drinks. There was an opportunity to check in. We may not be able to do this because of COVID precautions, so we need to find other ways to intentionally connect on a human level. Call your employees and genuinely ask how they're doing and what they need.

In thinking about diversity, equity, and inclusion, think about this: if you as a leader are inviting someone with a different background or identity from the rest of your team into your workplace, that space must be prepared for the person to enter safely and remain there successfully. You and your team need to talk about how you got to the place where you discovered you were missing other perspectives: why has it taken so long to get there? Why hasn't your workplace prioritized diversity? They need to know the answers to those questions before they can think about welcoming others into their space.

What are some challenges organizations face in fostering psychological safety?
Many leaders don't understand what psychological safety is or why it matters.

There's a real business cost to that lack of understanding. People who don't feel psychologically safe underperform, they start to withdraw, they stop hitting deadlines. They aren't engaged. They may lash out on social media. And if that discord becomes public, it can damage your reputation.

Leaders need to ask themselves: "Do I understand what it takes to make the people who report to me feel safe?" And if they don't know, they need to start figuring that out.

I had one client say to me, "Why should I worry about people's feelings at work? People just need to do their job." I asked him, "How important is it to you that they do their job **well**?" The sad truth is, you can get some people to do anything if you scare them enough. But will they deliver the quality of the work you want; will they stick around long enough to get the job done? And how important is it to you to be the kind of leader you would **want** to follow? Remember the old saying: employees don't leave bad jobs; they leave bad bosses.

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OVERVIEW

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Pricing and Negotiating Legal Services

By Richard G. Stock, M.A., FCG, CMC, Partner with Catalyst Consulting

This is the twenty eighth in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

PRICING LEGAL SERVICES

The Association of Corporate Counsel (ACC) released a comprehensive report benchmarking legal operations in March 2020. The law department maturity model (3 stages) surveys 15 functions, with one of the functions being *External Resources Management*. The findings were telling. Only 11 % of the 316 participants reported they were in an advanced stage for this function. Three of the 13 sub-functions are noteworthy when considering the proportion of companies that had no measures / protocols in place

- 42.8 % of companies did not have outside counsel and vendor management as centralized functions within legal operations or involvement of legal ops in RFPs, engagements, pricing and performance reviews
- 65 % reported that Alternative Fee Arrangements (AFAs) were not considered and were not heavily used in all matters
- 69.2 % of law departments did not rely on systems to smoothly incorporate / support AFAs in billings and metrics.

It is worth remembering that the "best price" for a portfolio of legal work depends on a combination of factors, including:

- multi-year demand forecasting that reflect estimates, not guarantees, of work volumes
- the fewest possible number of firms (convergence)
- agreement on staffing / delegation distributions for each portfolio and category of work
- a commitment to rigorous matter budgeting by task / phase and by timekeeper

Pricing Specifications

When it comes to pricing, managing the expectations of all stakeholders, including law firms, requires considerable preparation. This is essential when the objective is to prioritize non-hourly fee arrangements such as AFAs and make these the predominant rather than the occasional method of pricing legal work. For most companies, and for many law firms, AFAs still represent a significant shift away from variations of the hourly rate. Many law firms introduced the role of pricing specialist to respond to RFPs and ISPs some

years ago, and in many cases to lead the firm's pricing negotiations. Many firms have experience working systematically with dozens of clients on pricing. Their knowledge of law firm economics is sophisticated.

Pricing legal work requires much more than proficiency in AFAs. Companies should possess a practical understanding of law firm economics and the related profitability variables, of law firm cultures, and of law firm compensation systems for partners and associates for the firms that they use.

Unmanaged practice patterns in law firms add at least 10 % to the effective rate. The RFP or ISP should prescribe "optimal staffing distributions" for categories and portfolios of work. Firms should be asked to propose compact and stable teams of senior and junior professionals as well as paralegals to cover the reference period.

Law firm responses to the RFP / ISP should state the extent of their support and the related conditions for the application of these optimal staffing distributions in pricing legal work.

Choosing the Most Effective Alternative Fee Arrangements

Some have said that AFAs should stand for "appropriate" rather than "alternative" fee arrangements. This leaves the door wide open to default to traditional variations of hourly rates. It is also at variance with making non-hourly fee arrangements the predominant albeit non-exclusive approach to pricing legal work. Over the years, corporate law departments have selected pricing that they believed suitable for individual matters. Nevertheless, today more than 80% of legal work referred to external counsel is still priced on a variation of hourly rates. This is not surprising, since hourly rates require a minimum amount of change to operating practices in the company and in the law firm. This is not the same as cost-effective pricing.

There are three basic categories of fee arrangements and each has variations - hourly fees, fixed and flat fees, and contingency / percentage-based fees. There are hybrids and variations for each of them. For instance, a fixed fee can be combined with a performance fee tied to a result. Designing an alternative fee arrangement that is effective and appropriate for a category of matters – possibly for hundreds of matters with a broad range complexity levels covering a 3 – 5 year reference period – requires a credible demand forecast and a critical mass of work.

Getting companies and their law firms "off the clock" and focused on the company's priorities suggests that the choice of pricing should:

- stimulate *efficiency* in legal work, enough to reduce the hours needed to support a portfolio of matters by at least 10 % over time.
- reward the *effectiveness* of legal work, as measured by the results anticipated by the client
- promote *innovation* initiatives that pass the **S.M.A.R.T.** test and which improve efficiency and / or effectiveness.

Fees for Performance and Innovation

Performance-based fees are a retrospective fee based on value. The performance indicators should be set out in the RFP / ISP and in the terms of engagement with each firm.

Performance indicators typically include results, service levels, efficiency and cost predictability.

A few companies have migrated to a more advanced and simpler form of performance fee with their primary firms because they have been satisfied with service levels, with results and cost management over the years. In such cases, performance tends to be more developmental in nature and can take the form of an Innovation Fee that supplements a fixed base fee. From 10%-15% of the overall legal budget can be reserved to fund innovation.

Specific projects are developed by the law firm and the company – effectively a list of research and development initiatives that benefit the company in the short term. A specific budget is proposed for each project. Under the guidance of the law department, each project is evaluated upon completion. The extent of success determines how much of the project budget is paid to the firm. Some law departments have concluded that the only way that they will make innovation headway is when they pay law firms to help them do so. Nearly 10 years of innovation awards testify to the opportunities for innovation in all facets a company's legal activity.

Costing a Preliminary Allocation to Law Firms It has been nearly 30 years since some companies began to use the procurement process to reduce or "converge" the number of law firms relied upon. Some have completed their fourth or fifth procurement cycle. Convergence is a sourcing strategy that creates a larger share of work for the successful firms. This in turn provides the company with more leverage in price negotiations. In the context of multi-year agreements or multi-national coverage, the law firm has access to a critical mass or work and to a dependable but not guaranteed revenue stream.

Ben Heineman's *The Inside Counsel Revolution* (2016) traced the continuum of practices and relationships that law departments have had with external counsel over five phases. Phase Three refers to the era of "preferred providers" when preferences for key law firms and particular lawyers become explicit. The largest volumes and most interesting work continue to flow to traditional providers, and it appears that relationships and a good track record continue to trump price. In this phase, law departments do not have the analytical tools or they fail to use them to their full potential. They cannot determine how much more they are paying than what they would pay to other panel firms.

Assuming a Phase Four relationship is in place with primary law firms, a company should then commit – but not guarantee – a volume of work for several years in exchange for a fixed price. The company secures budget predictability and the firm has regular cash flow. Provided annual volumes are sufficient, collar arrangements, ranging from 10 % to 15 % are usually sufficient for the firm to secure predictable cash flow and to stimulate efficiency in the law firm.

If follows that fixed fees for a portfolio of work can easily evolve into hybrid fees consisting of a fixed base amount plus a variable portion tied to key performance indicators. It is still only a minority of companies that systematically

firms, with most others preferring a "no news is good news" approach. Heineman discusses the elements of company-law firm partnering arrangement in Phase Five.

Setting aside transitional arrangements with legacy firms which are not retained after a new procurement cycle, companies should prepare a preliminary work allocation of 100 % of the RFP / ISP Scope of Work to the smallest number of firms.

An example follows for a portfolio of 25,000 hours per year covering employment, labor, benefits advice, affirmative action, and strategic advice regarding Human Resources with requirements in 15 states.

Area of law	Firm A *Low Cost*	Firm B *Coverage*	Firm C *Coverage*	Firm D *Strategic Relationship and Specialized*
Affirmative Action (4,000 hours)	*4,000 hours* *@ $325* $ 1,300,000			
Benefits Advice (4,000 hours)				*4000 hours* *@ $425* $ 1,700,000
Employment Law (10,000 hours)		*5,000 hours* *@ $360* $ 1,800,000	*5,000 hours* *@ $340* $ 1,700,000	
Labor Law (3,000 hours)		*1,500 hours* *@ $380* $ 570,000	*1,500 hours* *@ $360* $ 540,000	
Strategic Advice (4,000 hours)				*4,000 hours* *@ $675* $ 2,700,000
Totals	$ 1,300,000 *4,000 hours* *@ $325.00/hr*	$ 2,370,000 *6,500 hours* *@ $364,62/hr*	$ 2,240,000 *6,500 hours* *@ $344.62/hr*	$ 4,400,000 *8,000 hours* *@ $550/hr*

Preparing a first draft of the costing allows the law department to consider the best balance of cost, coverage, and competence (expertise). Additional drafts for different allocations will affect the applicable discounts and the overall cost. A preliminary costing should be prepared before the second (or final) round of price negotiations with the successful law firms. In the example above, Firm D would be paid $ 4,400,000 per year for 8.000 hours.

The 3-year price would be $ 13,200,000 for 24,000 hours of Benefits and Strategic Advice. The fee would not vary if the worked hours (assuming a 10 % collar) ranged from 21,600 to 26,400 over the three (3) years.

Final Evaluation

A final comparison of prices is carried out after a second round of price negotiations is completed with the successful firms and after the final/provisional allocation of work is made. Experience suggests that firms are eliminated

- based on the results of the non-financial evaluation
- after a comparative evaluation of prices but before negotiations
- after a first round of fee negotiations
- after a last round of price negotiations and a final/provisional allocation of the portfolio of work

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NEGOTIATING LEGAL FEES

There are many types of successful negotiations for professional services with law firms.

It can be useful for law departments and procurement professionals to have a road map to make the negotiations as effective and efficient as possible. In this case, negotiations are in respect of multi-year portfolios of legal work rather than for single legal matters. The focus is less about the art of negotiating with law firms and more about practical advice in preparing and conducting negotiations.

Building Blocks

Pricing

My last article on *Pricing* advocated in favor of non-hourly fees as the predominant financial arrangement for most categories and complexities of work. It argued in favor of alternative fee arrangements that stimulate and reward effectiveness, efficiency and innovation in legal services provided there is a measurable contribution for each of these.

Provisional allocations and comparative pricing of law firm proposals at different stages of the RFP / ISP and negotiation process are discribed later in this article.

What to Negotiate

There are specific questions to be asked in the RFP / ISP. These can be expanded for both the financial and non-financial elements. The answers will assist in qualifying firms and accelerating the negotiation process. Consider the firms' written responses to be the early stage of negotiations.

Some of the non-financial elements to discuss with firms include:

- a commitment to detailed matter planning and budgeting to manage the number and distribution of hours before they are worked by the firm,
- coverage by the firm for each legal specialty, for various levels of partner / associate / paralegal experience, and by jurisdiction,
- the expertise and availability of the law firm's team members at all levels of experience,
- service level guarantees with key performance indicators, covering all offices of the firm as well as the allocation of work by primary firms to secondary firms,
- a relationship partner accountable for all aspects of the firm's professional and financial performance,
- acceptance of the transfer of administrative and management reporting from the company to primary and coordinating firms to minimize the company's investment in infrastructure.

Some of the financial elements to cover with the RFP / ISP and in meetings with firms include:

- the company's preferred staffing distributions by category of work,
- the use of alternative fee arrangements,
- the prices and related conditions/discounts for the work proposed by the firm,
- the stability of prices over the RFP / ISP reference period,
- fees for performance and / or innovation as part of hybrid alternative fee arrangements,
- the admissibility of disbursements,
- the speed of payment and its relationship to price,
- the annual review and adjustment mechanisms based on work type and volumes.

The First Elimination Round

The Project Manager should prepare two reports for the working group. These are useful guides to the other members as they read all the proposals. The reports are a *Qualitative Analysis of the Responses to the RFP/* ISP, including a score for each firm and a *Financial Analysis of the Responses to the RFP* (or ISP). The financial analysis is prepared prior to any discussions with law firms and before any provisional allocations of work to firms.

Experience suggests that working groups should eliminate proposals which score less than 75 % on the qualitative (non-financial) analysis. At this stage, the Project Manager should press the working group to reduce the number of proponents without regard to the financial analysis. It makes little sense to engage with law firms for three or more years when their competitors out-score them significantly on multiple fronts. Law departments prefer a gradual approach to eliminating firms for non-financial reasons rather than on price before negotiations commence.

Provisional Allocations

Law firm proposals should indicate the amount and type of available work that they wish to acquire for each jurisdiction. The law department representatives to the working group will have read the proposals and the reports prepared by the Project Manager. The working group should then be ready to provide the specifications for a *provisional* allocation of work before the first round of negotiations with the remaining firms. For example, they could indicate that the litigation portfolio for a given region be allocated 60 % to Firm A, and 10 % to each of four other firms. The Project Manager can then cost the allocation using each firm's initial pricing proposal.

None of this information is shared with the law firms. However, it represents the projected legal spend for each portfolio of work prior to the start of negotiations. And it illustrates any gap with the financial targets set out in the agreed sourcing program. Experience suggests that some law departments are reticent to develop provisional allocations. In such cases, the Project Manager can prepare an allocation based on historical usage patterns, the proposed pricing of the firms remaining after the first elimination round, and the results of the financial and non-financial analyses. This allocation and costing should be shared with the members of the working group to serve as a baseline for the first round of negotiations.

Provisional allocations and costing should be prepared after the first elimination round as well as after each round of negotiations.

The First Round of Negotiations

In Person

Law firms invest considerable resources to prepare comprehensive proposals for legal services, especially for multi-year portfolios of legal work. It is recommended that the first round of negotiations take place face-to-face and that two hours be set aside for each meeting, especially if there is a list of non-financial items to cover and if there is to be a departure from the historical pricing model.

Who Should Be Invited?

No more than five individuals should attend from the law firms. At a minimum, these

should include the Relationship Partner, two or three other partners, responsible for primary categories of work such as litigation, and mergers and acquisitions, etc., and the firm's Chief Pricing Officer. The firm should identify its proposed attendees by name and role in the letter accepting the invitation to meet.

The Schedule and Agenda

The Schedule

An agenda should be sent to each law firm 3 to 4 weeks prior to the meeting to ensure the availability of each participant and of each member of the working group. Provided that logistics allow it, primary firms and legacy firms should be met early in the sequence. Three meetings per day are sufficient to allow pre-meeting briefings, tardiness by group members, breaks and lunch, and the end-of-day briefing of the group. Schedule a secondary firm if a fourth meeting is necessary on a given day.

The Project Manager should schedule a half-day preparatory meeting for the working group on the first day of law firm meetings to discuss:

- the two reports, namely The Qualitative Analysis of the Response to the RFP/ISP and The Financial Analysis of the Responses to the RFP/ISP,
- the costing of preliminary allocations,
- the roles and responsibilities of each member of the working group, with attention to the questions to be asked by each group member,
- the agenda and issues particular to each firm,
- the timeline for the conduct of each meeting,
- the 30-minute end-of-day debriefing session.

The First Meeting

Firms should be discouraged from making a general presentation lasting more than 15 minutes. Any presentation should be customized to the company's RFP / ISP requirements and should address as many of the agenda items as possible. For the sake of efficiency and effectiveness, the first four agenda items and the presentation should be completed within the first 60 minutes.

The financial portion of the meeting should be led by the working group's pricing specialist. Specific changes to the firm's initial pricing proposal are typically requested, and may include

- coverage by jurisdiction
- practice patterns and staffing ratios
- the configuration of alternative fee arrangements
- annual rate and/or price increases
- discounts and related conditions

Firms can rely on a mix of variables to offer more favorable prices for the RFP/ISP reference period. At this stage, the company can suggest a specific target and price together with the relevant conditions, such as volumes and categories of work, that would have to be met by the company to achieve it.

Experience suggests that this level of specificity by the company always yields a better result than asking for a bigger discount.

Many working groups elect to eliminate some firms after the first round of meetings.

There are several reasons:

- some firms were met for legacy business and relationship management purposes but with few chances of work in the future
- a new firm was invited to propose but did not "align" well with the law department members of the working group
- the firm's responses to the non-financial and financial discussions offered little chance of significant work allocation in the future
- the projections for the cost of services will fall outside of the range acceptable to the company

The Project Manager should request a reduced list of eligible firms from the working group to limit the number of participants for the final negotiations.

Finally, the Project Manager should ask for a revised financial proposal – either as revised spreadsheets or detailed in a cover letter – within 2 or 3 days. The firm should also answer any non-financial questions raised during the meeting. Expect the firm's Chief Pricing Officer to request access to the working group's pricing specialist while preparing the firm's revised prices and terms.

The Final Negotiations

Evaluating the Revised Proposals

Once the revised proposals or letters are received, a summary should be prepared for the working group with a costing of the remaining firms based on the previous allocation, or if a new allocation is available a revised provisional allocation by jurisdiction and category. The summary may include recommendations from the Project Manager for a different allocation to achieve improved discount thresholds and company targets.

Negotiations

Alternatively, the Project Manager and the working group members may prefer a final round of negotiations with one or more of the remaining firms. Experience suggests that this round is likely to be primarily financial. In-person discussions are not necessary for this. Instead, one representative of the law department, the Project Manager, and the company's legal pricing specialist can arrange a video call with each firm.

At this point, the company should be prepared to suggest a provisional allocation of work to each firm in exchange for best and final pricing offers incorporating alternative fee arrangements, fees for performance and innovation, limits to annual increases, as well non-financial arrangements. provisional allocations should only be revised once the working group considers each of the law firm responses. Allocations will influence each firm's resource allocation, pricing, and workflow management all the while remaining provisional rather than guaranteed.

Allocations

Once all the revised proposals and related correspondence are on hand, the working group should meet to review its planned allocations and costing. Adjustments can be finalized at

this stage. The Project Manager can then develop Terms of Engagement / Master Service Agreements with each firm.

Administrative Arrangements

Experience suggests that accelerated terms of payment in the context of non-hourly fee arrangements will leverage a lower overall price. There are examples where anticipated volumes of work are pre-paid and fees reconciled on a quarterly or annual basis.

MSAs and partnering arrangements that cover 3-5 years cannot accurately anticipate the volume and distribution of work for each year. Variations by complexity and jurisdiction are inevitable. Agreements should include annual review mechanisms which are both retrospective and prospective. Adjustment to price may be appropriate when work allocation falls outside an agreed range.

Not all legacy law firms are retained after the sourcing process. It may be necessary to leave certain matters and hours with these firms in the first year while allocating work to successful firms.

Abridged with permission from the Buying Legal Council's Definitive Guide Buying Legal Services

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About the Author

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OPAQUE DISBURSEMENTS AREN'T JUST BAD FOR CLIENTS, THEY'RE BAD FOR BUSINESS

By Pieter van der Hoeven, Co-founder and CEO of Clocktimizer.

No one likes a surprise at billing. Whether or not AFAs are the new normal, most major law firms have engaged in some sort of predictive pricing practices to avoid these surprises. So how do we reconcile this drive for predictability against the hidden cost of disbursements and expenses? These outsourced costs are often poorly analysed, unreliably tracked, and rarely transparent for the client. In turn, law firms fail to learn from the insights this data stream can offer, thus undermining their hard-won internal client value efforts.

Law likes certainty. It's baked into the rule of law itself and forms one of the core tenets of legal practice. Every firm may have different processes or goals, but the fundamental deliverables are the same. We even have a system of (arguably over-complex) UTBMS codes because the majority of matters consist of well-defined steps and activities.

So, what are disbursements? Ask one firm and they're basic costs like printing or scanning documents.

For others, they include expert fees. Yet more stretch the definition to outsourced core matter work, like due diligence performed by a third party. In short, there is no definitive answer. What is clear is the knock-on effect for clients - confusion and a surprise at billing.

Not only is this negative for the drastic improvements firms have made in offering their clients transparency in recent years, but it also detracts from the increasing oversight firms have in pricing

and profitability. By defining and monitoring disbursements more closely, firms reduce uncertainty at billing and increase oversight for process improvements in the long term.

Transparency without disbursements isn't transparency

Imagine you head out for dinner to a nice restaurant. They provide you with a menu, with prices and descriptions from which you order. The food arrives as promised and everything is great until the bill appears. While the price for the food was accurate, you now find out that the bread came from a different location and the costs were not included in the menu price. The bread increases your bill by 25%. Worse still, the waiter didn't even know the price of the bread at the beginning of the meal, and you couldn't opt-out of it.

While no one is going to award prizes for this unsubtle metaphor, it does a pretty good job of highlighting the challenge disbursements pose to client transparency. Law firms have made leaps and bounds in working closely and openly with clients. We regularly host webinars listening to the innovative ways pricing and LPM teams deliver matters as promised to clients. Strangely though, disbursements are seldom featured in this picture.

Arguably, this lack of oversight is a relic from a less transparent era: When disbursements were passed directly on to clients without challenge and often without being written off. But in a world where a pandemic still looms over in-house legal team budgets, and where the legal services market is even more competitive, hidden costs can be a motivating factor behind a change of legal representation. In 2020, as many as 68.4% of firms reported losing business to companies in-sourcing more work. Whenever budgets are stretched, one of the priorities for in-house teams is in having predictable legal bills that can be clearly reported to their own CEOs. Unexpectedly high disbursement costs are simply not compatible with that kind of oversight.

Garbage in, garbage out

So how can law firms change their approach to disbursements? First, it is key to be able to identify them. This series has already covered the relationship between good data and the formation of bespoke pricing blocks, all the way to the innovative pricing strategies that build on them. One of the core messages running through all the articles is that transparency depends on the insights that accurate data offers. Namely, if you don't understand the past, you can't predict the future.

For many firms, the first hurdle is in tracking disbursements. It is impossible to monitor a disbursement if it isn't tied to your existing matter management and billing system. It is essential when an invoice is logged, it is attached to the relevant matter. Equally, each cost should be tagged as pass through or not, to indicate whether it will impact firm profitability. More generally, firms should always be able to tell clients which disbursements the firm will pass on directly, and which ones will likely incur costs.

Beyond that, firms should be able to set budgets for disbursements, alongside their matter budgets. At Clocktimizer, we can track when disbursement costs are logged to a matter and can create alerts to notify a user when a budget

threshold is about to be met. In doing so, disbursements can be tracked, and firms can start a conversation with a client about these additional costs before they get out of hand. This gives cost certainty to clients, resulting in a closer and more transparent relationship. Setting a budget also requires the owner to manage expectations and set price and scope with the supplier as well as with the client.

A more transparent future?

Reporting and monitoring of existing disbursements, however, is still a short-term solution. In the long term, more sophisticated monitoring of disbursements presents an opportunity for more sophisticated pricing structures. Particularly in evaluating whether outsourcing certain activities is more cost-effective.

During one of our recent webinars, Royale Price noted that "there are huge opportunities in using alternative resources, especially where you are using fixed fees". Currently, very few firms tag disbursement invoices with the activities they represent. However, if they began a more granular categorisation of these costs, firms could use tools like Clocktimizer to compare the cost of an outsourced activity, with one performed in-house. In turn, these insights could inform firm strategy in selecting which activities should remain core processes, and which are more profitable when performed by a third party.

On a wider scale, firms could also use this insight to track international matters with greater oversight. Currently, it is possible to use a disbursement construction to outsource portions of work to a third-party law firm in a multi-jurisdictional matter. Because this work is invoiced but not categorised, firms do not have the same matter oversight that they do with internal work. This means updates and client reporting require regular calls and additional admin work to gather the data from their partner firms. However, in tagging the activities, firms could generate the same matter reporting insights that they do with their in-house matters. With the same categorisation, the same matter progress reports can be generated, including the work of sub-contracted parties. Not only does this drastically reduce the amount of time taken to report to clients, but it also increases transparency in budget and matter oversight.

A new form of LEGO block

Disbursements, then, need not be an invoice black hole. Their greatest restriction at this moment is in how poorly they are defined and monitored. However, as firms have learned to categorise and analyse the work performed in-house, so too can firms turn this exercise outward. Initially, defining the scope of disbursements and setting budgets for them offers an immediate win in billing certainty and transparency for clients.

Looking forward, a more sophisticated analysis of the activities making up disbursements could lead to like-for-like comparisons of in-house and outsourced work for long-term profitability. Additionally, this increased level of oversight will enable firms to manage multi-jurisdictional matters with the same matter data as in-house work. The bottom line? Why stop at measuring what happens internally, when the external work can have equally as big an effect on client satisfaction and service delivery.

About the Author

Pieter van der Hoeven, a former M&A lawyer with 15 years of experience in the legal industry, is the co-founder of Clocktimizer, which is now part of Litera. Clocktimizer is an award-winning legal technology company that helps law firms to understand who is doing what, when, where, and at what cost. Global 100, Am Law 100, and Am Law 200 law firms use Clocktimizer to make data-driven decisions around matter management, budgeting, and pricing. Before starting Clocktimizer in 2014, Pieter was an M&A lawyer at DLA Piper and earned his MBA from Rotterdam School of Management and IE Business School. Pieter can be contacted at pieter@clocktimizer.com

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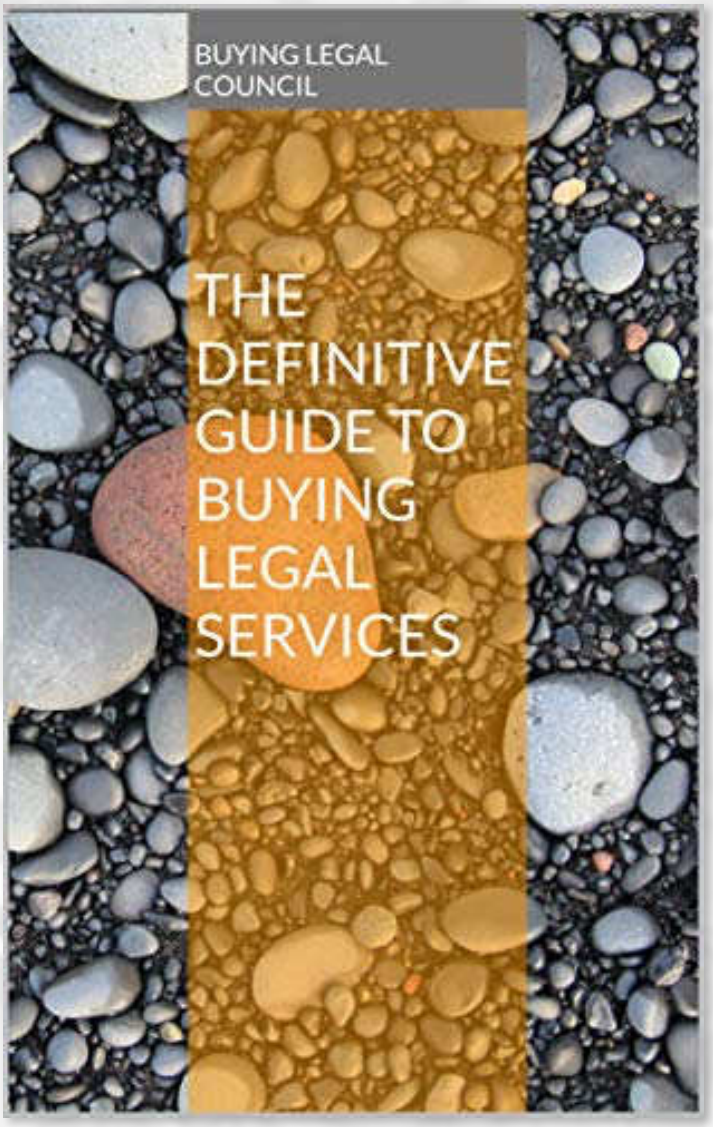

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WHAT HIGH PERFORMING GROUP LEADERS DO: COACH PARTNERS ONE-ON-ONE

By Patrick J. McKenna, Thought Leader and international renowned author

One of my more memorable career achievements was being hired to conduct leadership training for the in-house Legal Department Heads at a pioneering technology company called Intel. What made this experience especially extraordinary (and ironic) is that a good part of my first day's instruction covered the importance and logistics for conducting one-on-one coaching. The ironic aspect of this was how I was first introduced to the importance of leaders engaging in coaching – through reading (High Output Management published back in 1983) the work of Andrew S. Grove, co-founder, Chair and CEO of . . . Intel.

Leadership is about behavior and one of the most critical skills for any leader is in being a good coach. Almost everyone can benefit from the straight talk and support of someone you can turn to for a bit of guidance or just talk to about an issue, either when you're

lost or stuck in old patterns can be enormously helpful, especially when this person is someone who knows you and someone you can trust enough to reveal your blind spots and vulnerabilities.

Are you constantly fighting fires or having to deal with various performance issues? Engaging in constructive one-on-one discussions can help you catch interpersonal conflicts or underperformance issues before they've exploded. As a leader you still have to follow through on what you learn, but knowing about a problem when it's first developing can make it much easier to address than when you have to triage later.

As a practice or industry group leader you have numerous colleagues who have career aspirations. They want to grow, build their skills, try new things, get acknowledged by their colleagues and in the marketplace.

If you don't have the conversations with your people about this growth, they may just revert to autopilot, inadvertently doing the same old schtick day to day. Without regular one on ones, these conversations often get lost in the shuffle and only surface during annual reviews which are then quickly forgotten and never acted upon.

One of the great benefits of engaging in one-on-one coaching is that you set aside time for a colleague to talk about them. And you should not underestimate the impact of how showing that you care and that this individual is important can have on morale, commitment and trust in you as the group's leader. The more you get to know your people, especially through one-on-one conversations, the more you will know how to motivate each partner uniquely.

There are other benefits to engaging in one-on-ones. And you don't need to be the one who is always offering counsel, especially to some more senior member of your team. Perhaps one of your team members is thinking about some new initiative and wants some unfiltered feedback before they invest a lot of time in it? You making the time to arrange a one-on-one with a few of the more critical thinkers in your group may be the perfect way to both convert this individual's semi-baked idea into one that has impact as well as develop buy-in from a few key supporters.

There are many challenging dimensions to coaching: how to initiate it; when and how much to get involved; when to back off; what to say and what to leave unsaid; and how best to follow up. Successful practice leaders learn how to straddle the line between "too little" and "too much" coaching.

I. Getting Ready to Coach

In a very proactive manner, high-performance group leaders will make it a habit to ask themselves on a weekly basis, who on their team might need some attention:

- Is anyone in noncompliance with our group standards?
- Is anyone struggling?
- Who needs help, even if they're not struggling?
- Who needs energizing?
- Who needs recognition or appreciation? (and don't overlook your Star performers)
- Is there anyone I haven't had coffee or lunch with recently (or otherwise paid personal attention to) in a while?
- Is anyone doing things that are disrupting the group?
- Who do I have the least solid relationship with?
- Are the juniors being looked after?
- Are there any conflicts going on between group members?

Meanwhile, in more of a reactive mode, spending time on coaching is what is required when some partner in your group:

- is unclear on where they want to go with their careers such that they are just cruising along doing the same old shtick;
- asks for advice, assistance, feedback or support;
- is taking on a new task or responsibility;

- appears frustrated or confused;
- seems indecisive or stuck;
- is performing inconsistently;
- expresses a sincere desire to improve;
- performs below acceptable standards; or
- has a negative attitude that is impeding their work and the work of others.

It is also important to know when not to coach. Unless you are able to qualify and exceed the following conditions, you are probably not going to be able to provide effective coaching. You need to critically examine – do the people you are seeking to coach:

- consider you their trusted advisor?
- feel confident that you can help them to visualize and articulate their dreams?
- know you like them? (and do you actually like the people you are coaching?)
- view you as being someone who cares about others?
- see you as someone investing time toward building a strong relationship with them?
- feel comfortable admitting their flaws to you?
- see you as someone who would act and offer advice in their best interests (and not to make you look good)?

II. Some Preconditions to Being Effective

• ***Developing Rapport***

In a coaching relationship, the focus should be on your colleagues' professional goals and how they can be achieved. Your aim as coach is to create a level of rapport that encourages this individual to communicate honestly about their performance. If you have established good rapport you will feel comfortable and relaxed in each other's company to the extent that you can talk frankly and openly without either side feeling defensive.

Now, if you don't really know this individual, then you will need to build a foundation for the coaching relationship. You need to allow sufficient time for the coaching process and this aspect should not be hurried. Any attempt to rush it carries the danger of being seen as artificial, something you need to avoid at all costs. This is also true of the often-cited advice from coaching trainers that you should mirror your colleagues body language and speech patterns. If you are not skilled in this activity it can come across as false and potentially annoying, which will be detrimental to why you are conducting the coaching, especially if you work together.

The safest course of action is to talk about something that is work-related and about which you believe they have a genuine interest in or at least an opinion about. In the coaching meetings, after an initial greeting, open the conversation with a remark that lets your colleague know that you are genuinely interested in them and what they have to say. Then follow this with a question that leads the conversation into the aim of the coaching. Remember to actively listen and display your interest in what your colleague is saying and avoid doing too much of the talking.

• ***Active Listening***

To be an effective coach you must show that you are genuinely interested in the other person and what they have to say and want to help them develop their competencies and

achieve their career aspirations. Therefore, in any effective one-on-one discussion, you need to hear precisely what is being said to you so that you have a clear understanding of the issue being conveyed. The principle of active listening is your disciplined ability to prevent distractions breaking your concentration during your discussions.

The amount of eye contact you have with your colleague during your one-on-one; your use of non-verbal signs like nodding and smiling; together with verbal confirmations ("interesting, tell me more") are just some of the ways people assess how well they are being heard. One key element of active listening is your competence and attentiveness in being able to accurately paraphrase back to your colleague precisely what you have heard them say. Doing that confirms your understanding; helps develop rapport and empathy with the individual; and communicates your impartiality and comprehension.

To have effective communication you need to observe all the conscious and unconscious signs displayed, enabling you to discern the true meaning behind the spoken words. By truly listening you are able to form questions that serve to probe deeper into the essence of the subject and stimulate your colleagues' thinking process.

III. A Few Coaching Challenges to Keep in Mind

Most professionals view themselves as rugged individualists making autonomous decisions, charting their career and mapping out their futures. When we offer these same professionals some coaching assistance, we tend to base our perceptions and prescriptions on our own behavior, performance, personality and sense of what we believe appropriate. So, some of the built-in mindset challenges that may affect your coaching abilities include:

• ***How first impressions can stick***
Your perceptions color your reality and are actually capable of altering your relationships. Once we form a first impression of an individual, we strongly resist changing that impression. Further, once we have formed that first impression we then tend to rationalize the individual's characteristics and behaviors to fit our preconceived impression.

We tend to package all information that we collect about an individual. Most of us have a menu of favorite labels we use to describe different people. After some observation we select one of those labels and assign it to the person.

If your overall impression of someone is positive you will likely have a tendency to discount some of their faults. Similarly, if your overall impression of a person is slightly negative, you may tend to overlook their positive traits. While many of the traits, characteristics or behaviors associated with a particular label might fit this particular individual, others will not. But, because we tend to hold the bundle together as a convenient whole, we tend not to closely scrutinize the attributes that may not fit.

Most of us would have a difficult time reconciling a negative impression of someone with outstanding performance in certain areas.

Instead, we attribute lower performance in all areas, even though some actually may be inaccurate, in order to make sense of our overall impression.

We may acknowledge an individual's weaknesses in a key area but rationalize them because we like this person, and the person has strengths in other areas. But, if those weaknesses are found in critical areas, they may have a significant influence on our overall impression.

• ***How we tend to view failure differently, depending on who is failing***
We tend to blame our own personal shortcomings on factors in our environment, while we tend to blame the failures of others on the individual.

When we have fallen short of expectations, we are likely to summarize our behavior as "having had a bad day," or helping others understand just how "the circumstances had changed." Alternatively, in the very same situation, if the failure were the result of someone else's action (or lack thereof), we could just as easily be talking about how "he does not have sufficient experience to handle the responsibility," or how the management of this matter suffered from "his obvious failure to properly communicate."

• ***How over time, many seem to just naturally rest on their laurels***
Over time we all tend to develop a level of performance that becomes comfortable.

As professionals master their craft, they typically try to achieve a comfortable level of performance as expressed by hours spent at the office, hours billable, new client volume generated or any combination of familiar metrics. As we increase our knowledge and skill doing an effective job for clients becomes more routine and less stressful than when we first began in the profession. Eventually we reach a level of competence where we feel we have mastered our job and then begin to coast at a comfortable level.

Professionals who would never have been satisfied with average grades at law school now consider being average, in their personal performance metrics as compared to other partners, quite acceptable.

This may be where the concept of 'resting on one's laurels' had its origins. Professionals will then attempt to justify how they continue to perform at the same levels, if not at a higher level than they did in previous years. As we become more senior, we also tend to believe that we have paid our dues and should not have to continue to make payment. We look forward to a time when we are able to produce excellent performance without exerting too much effort. This might work except for the fact that things change – our skills become passé and our competencies become commoditized. Meanwhile, the more senior we are, the more people's expectations of us increase. The older we are the more people expect that we should know and the more we know, the more we are expected to excel.

Many believe that the simplest way to increase someone's contribution is to have them work harder, put in more billable hours and exert greater effort. But increasingly,

with seniority, the expectations of more hours leads only to extreme anxiety, potential burnout substance abuse and irritable behavior. The only way to help these partners increase their contribution is to help them work smarter rather than harder.

• How we need to find agreement on what needs changing

We cannot change something when we half-heartedly agree to work on it. Too often people feel that they need to work on changing something that someone else wants to see changed. This attitude represents compliance, not commitment.

Consider this. Identify the one skill that, if you were able to perform it with a high level of proficiency, would guarantee that you were perceived as a star player and make a significant difference in your career success?

Now look back to your last performance review and see if that same skill was identified such that it is something that you are currently diligently working on improving?

In spite of our current fad to believe that we can effectively multi-task, the truth is that we all face real limitations on how many different issues we can successfully tackle at any one time. It is highly improbable that you can juggle a half-dozen different priorities. Whenever we try to address more than one or two important things at the same time, we end up making no significant progress with any of them. Therefore, you can only help someone to the extent that you can assist someone to prioritize and focus on one or two of their most critical issues.

People would genuinely like to achieve everything that is on their agenda and everything that they aspire to achieve. The painful truth is that past experience leads us all to believe that little change will actually take place. We are optimistic about what could be achieved but highly skeptical about our personal resolve and discipline to actually follow though. To the extent that you can get your partner to accept changing or accomplishing just one important issue and to the extent that you can accomplish even a modest win, the other issues yet to be addressed, become insignificant.

• How helping develop strengths can often trump fixing weaknesses

Developing a moderate strength into a profound strength would have a far greater impact on performance than fixing something that was slightly below average.

The process of progressing from unacceptable performance to acceptable performance is far more straightforward and understandable than going from acceptable performance to outstanding performance. It is usually very clear what needs to be done to remedy an underproductive partner. Skill weaknesses and behavior problems are observable and the solutions often easily identifiable. But the process of gravitating to outstanding performance is a lot harder to quantify.

Imagine if we were to make a list of the most important skills, areas of knowledge and activities that any practice group leader should engage in. Imagine then that we classify our list into three categories – critical, necessary, and nonessential. Now imagine that have all

of the partners in your firm rate all of the group leaders based on this model.

Research shows that highly rated leaders are excellent at a few things and good or average at most other things. Meanwhile, profiles of the lowest rated leaders do not show them to be terrible at anything. Their profiles only point to below acceptable scores in one or two, albeit, critical areas. The poor showing of these leaders has tarred them with a negative performance rating on other skill areas.

The question then becomes if you only did one or two things exceptionally well, which one or two things would make the biggest difference or have the most significant impact on the way those partners in your practice group perceive your contribution.

IV. Steps To One-On-One Coaching

As a Team Leader, in order to be effective, you should be making an effort to invest time to initiate and confer with each individual member of your group. The best way to prioritize these communications is to schedule regular one-on-one coaching meetings into your calendar and make investing the time with your colleagues a priority.

1. Inform Your Group

A sudden meeting invite for a one-on-one coaching meeting could be uncomfortable to a colleague, if they weren't expecting it. You want to have them understanding the purpose of these meetings — not making up excuses to avoid getting together with you

There are a couple of ways to accomplish this. One is to have firm leadership may it clear to the partners that they are expecting all of their practice and industry leaders to devote time to meeting one-on-one with each partner as part of their responsibilities.
They need to know that the primary reason for those meetings is that they are intended to:

a. debrief on client assignments (what are we each learning that could be of value to the others on the team);
b. solicit valuable feedback (what could we be doing differently both in our group and in the firm);
c. explore new or different marketable opportunities (how could we be developing the "go-to" reputation in certain targeted niches); and
d. identify and assist with individual or career issues or challenges that any partner cares to raise.

You might also, as team leader, raise the subject at one of your regular meetings and tell everyone what to expect. Make it clear what these meetings are for the partners, and that some of the partners will be expected to hold the same kinds of meetings with the group's associates. You can explain that it's a meeting for the partners to talk about what's on their mind, give them coaching, share feedback both ways, and talk about their career aspirations and development. It is recommended that this explanation come by way of a face-to-face discussion and not by circulating some kind of memo or email – as at the core this initiative is about improving your group's overall communication and performance.

2. Schedule Time

One of your major priorities as a Team Leader is to set aside at least one-third of your allotted leadership time to meeting with your group members and primarily partners. Access your calendar and schedule the times to conduct your coaching. The topics that you choose to discuss with each member is likely to be different but scheduling the time for these discussions is critical.

Ideally, you should never go more than a month without meeting with one of your partners. Too much can happen in a month to not check in. And you should schedule a full half-hour to meet (and initial coaching meetings can often take a bit longer). You can always end early, but you never want to be engaged in discussing a pressing issue only to run out of time because you have a scheduling conflict.

And unless you have an unusually erratic schedule it usually helps both you and your colleague to know these discussions happen on the same time and day each month, so that everyone can expect and anticipate the meetings. And as some of your partners may very well practice in other geographic locations, a focused one-on-one by videoconference is always preferable to not talking for months.

In addition, you will likely need to schedule some time weekly, at least initially, to meet with those who represent a new lateral addition to your group; or placed in a new role (perhaps an associate who has just been promoted to partner); or perhaps even some individual suffering a personal or performance issue that needs remedial action. Do this even if everyone else only has monthly meetings.

You can always adjust the frequency of meetings with each partner as their personal situation and comfort level changes. You overriding priority is to ensure each member of your group has the support they need to thrive and be even more successful.

3. Create a Shared Agenda

Whether you're just starting out or have been engaged in informally coaching colleagues for some time, planning ahead with an agenda can have an important impact.

To get the most of the 30 minutes you have for each of your colleagues, you need to think about what you want to discuss in advance of getting together. By formulating an agenda for each of your coaching meetings, you can ensure that you sit down knowing what you'll be covering. And in developing that agenda, you should reach out to each partner to ask them what they might want to include in your discussions. It only makes sense to ask your partner to include the most important thing that is currently on his or her mind. To make sure that happens, ask them to send you a couple of brief bullet-points on anything they want to discuss. Then if they come to you mid-week with something they would like to discuss, that might be better referred to your coaching discussion, simply encourage them to "add it to our agenda."

At the risk of being repetitive your agenda could include some or all of these four items presented as the primary reasons for these one-on-one meetings:

a. debrief on client assignments (what are we each learning that could be of value to the others on the team);
b. solicit valuable feedback (what could we be doing differently both in our group and in the firm);
c. explore new or different marketable opportunities (how could we be developing the "go-to" reputation in certain targeted niches); and
d. identify and assist with individual or career issues or challenges that any partner cares to raise.

The more effective coaches: Focus on specific actions rather than generalities or platitudes. For example, in conversation with one of your partners you can be specific and observe, "the associates seemed to really appreciate your examples and counsel on how to effectively deal with a client who comes across as overly demanding. May I ask that you do more of that as the associates really benefit from experienced guidance?"

4. Talk About Their Growth and Development

Consistent with the item noted above, one of the most motivating and transformational one-on-one coaching topics you can chose to pursue with any of your partners, is about their career aspirations – and it needs to be about their personal career goals and not what anyone thinks they should be focusing more attention on for the betterment of the group or the firm. Keep in mind that when you tap into someone's core passion, drive and interests, you unleash their greatest motivations.

Now, if someone isn't ready to talk about their career aspirations, don't force it. Help those partners in your group ready to discuss it and revisit this discussion from time to time. If they see others on the team excited by what is being discussed in their meetings and growing as a result of your help, it's a safe bet that they will come around.

And if they are already one of your team's star performers, you need only inquire of them what support they may need from you or what resources they do not have that they could utilize to exceed what they are currently achieving.

The more effective coaches: Inspire others
Be seen as a positive catalyst for change and personal growth. Wherever possible try to offer or direct your colleague to relevant sources for good ideas, inspiration and direction. The best coaches radiate energy and enthusiasm. Your goal is to build confidence and self-esteem, which in turn encourages even greater efforts.

5. Determine Some Questions You Might Want to Pose

To spark a healthy, productive discussion you might want to think through which questions might best stimulate your partner to talk about their goals, aspirations, views and concerns. Good questions are a key ingredient to making the most of your coaching discussion. The right question can help uncover a critical problem or help identify an unexplored opportunity you would never have heard about in any other way. Here are 30 questions in 7 different areas that could help your one-on-one efforts:

- *Introductory Questions*
  - What is the most interesting development that has happened for you since

last we spoke?
- Tell me about what you have been working on lately that's exciting?
- What is the most important thing we need to discuss today?

• *Quick Review of Last Month's Performance*
- How do you feel about your billing performance last month?
- At what point in the past month were you most frustrated with or discouraged by your work?
- What's the most important thing you accomplished in terms of results?
- What skills do you have that you think are underutilized?
- Can you help me identify a situation where I could have helped more, but didn't?

• *Specific Career Goals*
(Make sure your colleagues are progressing in the areas that matter most to them)
- What are your specific plans to enhance your professional knowledge and build your marketable skills over the next two years?
- Do you feel that we are doing enough to help you enhance your professional knowledge and build your marketable skills at a pace you would like?
- What goals have you set for how you aspire to see your career grow?
- What big questions do you have about where your career might be going, given the extraordinary pace of change in our practice area?
- How do you feel about the progressing you are making in the areas that matter most to you?
- Which professional career or development goals do you feel like you are not able to focus on right now? And why?

• *Any Personal Issue or Problems*
- Is there anything that you are struggling with?
- What's most challenging for you right now? Where are you stuck?
- What can I do to help you get the kind of feedback you want?

• *Queries About Team Performance*
- (Ask questions about what improvements they might want to have the group consider, can help uncover what your colleagues are seeing and get great ideas to spark higher performance)
- What do you like the most and what are you proud of about being a member of our group?
- What are we not doing as a team that we should be doing?
- Do you feel adequately supported by other team members and how do they help you when you need it?
- Do you feel that everyone is pulling their weight on the team?
- What's one thing we could do differently to improve our productivity?
- Do you have any ideas on what we might do in the group to spark higher performance?

• *Client opportunities*
(One of the biggest opportunities for improvement)
- What client opportunities have you had recently to learn something new and that might potentially be transferable to other client situations?

- Are there any kinds of client matters that you would really like to work on if you were given the opportunity?
- What is one thing that we would be crazy not to do in the next quarter to improve how we are serving our clients?

• *Elicit Feedback to Help You in Your Role*
- I'm interested in getting your feedback on how I can improve as the PGL. For example, I'd welcome hearing about how I could do our team meetings better.
- What is your favorite thing that I do as the PGL of our team that you believe I should definitely keep doing?
- Can you help me identify a situation where I could have helped more, but didn't?
- If you were me what changes would you make?

The more effective coaches: Foster collaboration. Listen carefully for any hints of conflict and competition. Help you colleague to see opportunities where competition could become cooperation. Reinforce any examples of cooperation between various members of your team, as well as between groups.

6.Be Sure to Make Good Notes

Don't trust your memory when engaged in your one-on-one discussions. Research shows that when we take notes, our brain organizes the information we're hearing, which helps fix the ideas in our memory. That said, it is advisable to ask your colleague for "permission to take a few notes" assuring the individual that the notes will remain confidential.

Taking notes helps ensure that you are less likely to miss something important or find yourself back at your desk thinking, "now what did George say about that?" It can also help you spot patterns in your various discussions – such that you might find that you are hearing similar messages coming from different partners in your group; or perhaps very conflicting messages about how your different partners are viewing a particular message or event. And remember, you can't really prepare or follow up on important discussions at your next coaching meeting, if you do not have some good notes to review.

And during these one-on-one meetings, always remember to use your active listening skills to repeat back to them what you believe you heard, that was important to them from your meeting. By repeating back the notes you're taking, your team member can clarify anything they feel you may not have fully understood. It can also give them one last chance to think of anything else that was on their mind.

7. Identify Actionable Next Steps

Even if your coaching session covered some difficult topics, the goal of the meeting is to help resolve them and make things better for your team member.

As you listen to your partner's answer to your question, allow several seconds of silence before you ask a follow-up question or give feedback. In that way you will ensure that this individual has said all they want to say. You need to also be patient to allow your colleague to present the whole picture so that they expose the level of their concern, their knowledge and the extent of their ideas on

how to address any issue facing them. It is essential that you, as a coach, curtail any natural tendency you may have to rush in with suggestions or solutions. If you do not do this, you will be unable to avoid acknowledging your own emotions during your communication.

The best outcome is to end each meeting by coming up with action items for both of you to make progress on and be accountable to for next time. By setting actionable next steps, you are working together on solutions. This technique leaves your colleague in no doubt that you are giving them your full attention and sends a powerful double message—firstly, that you are there to support them in whatever they are doing; and secondly, that you are paying attention and expect them to follow through on any commitments they make.

This will also help strengthen your relationship with your colleague by building trust that when they come to you with a problem, something is done. This avoids those meetings that sound like a broken record – lots of talk about the same thing, but no real progress being made.

8. Commit Your Next Steps To Writing

It's important to get next steps in writing. Whether it's taking action on their idea or being clear about a performance improvement issue (which needs to be documented for HR), it clarifies next steps, and creates a mutual agreement to make progress. Consistent follow ups keep both you and your team member accountable to making progress on what you discuss. Make the most of these one-on-one meetings so your conversations aren't just endless talk.

Done right, your one-on-ones are the single most powerful investment you can make in your team. They can help you catch and fix problems when they are still small, coach and develop your people, and gain valuable insights from sharing information throughout your group.

About the Author

Patrick is an internationally recognized author, lecturer, strategist and seasoned advisor to the leaders of premier law firms; having had the honor of working with at least one of the largest firms in over a dozen different countries.

He is the author/co-author of 11 books most notably his international business best seller, First Among Equals (co-authored with David Maister), currently in its sixth printing and translated into nine languages. His two newest e-books, The Art of Leadership Succession and Strategy Innovation: Getting to The Future First (Legal Business World Publishing)) were released in 2019.

He proudly serves as a non-executive director (NED) or advisory board member with a variety of professional service firms and incorporated companies. His aim is to instigate innovation, provide independent strategic insight drawn from his years of experience, and

support effective governance.

His three decades of experience led to his being the subject of a Harvard Law School Case Study entitled: "Innovations in Legal Consulting" and he is the recipient of an honorary fellowship from Leaders Excellence of Harvard Square.

Leadership Series
Read more articles from Patrick McKenna, or read online/download his latest eBooks

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Driving Change in Diversity, Equity, and Inclusion

By Ari Kaplan, Principal, Ari Kaplan Advisors

Ari Kaplan speaks with Jennifer Martinez, the chief diversity, equity, and inclusion officer, and a partner at Hanson Bridgett LLP.

Jennifer Martinez

Ari Kaplan
Tell us about your background and your role at Hanson Bridgett.

Jennifer Martinez
I was a summer associate at Hanson Bridgett and after five years with other firms, I returned in 2013, making partner in 2019. I spent time over the past year reflecting on my career. The firm also created a task force in response to the social upheaval that was taking place as a means of being action-oriented and re-examining, internally and externally, the way that the firm could marshal its resources to advance issues of racial and social justice. One of the recommendations by the task force was the creation of a chief

diversity, equity, and inclusion officer. I really love this work and am now transitioning my litigation practice to other partners and associates in the labor and employment group.

Ari Kaplan
What is your mission in this role?

Jennifer Martinez
Our firm is really invested in moving the needle on these issues. When I was a young law student, we had a number of the same conversations about diversity, equity, and inclusion, including the need to increase retention and address attrition, but here we are 13 years later talking about the exact same things. We are committed to breaking out of that every-10-year-cycle of paying attention to these issues and then seeing enthusiasm fade, only to end up back where we started. My mission is to break that cycle of just talking. Our firm sees that process starting with reviewing our policies and practices within the firm to be a more conscious corporate citizen. We are an all-California firm and I grew up here. I think it's important that this firm look like and reflect the people and values of the state where we practice.

Ari Kaplan
What policies and initiatives have helped the firm support its diversity, equity, and inclusion initiatives?

Jennifer Martinez
We are directing our pro bono partnerships towards racial justice and equity efforts. We are also strengthening our relationship with law school affinity groups and working on several pipeline projects. In fact, we are trying to partner with our clients, who often want to do this work as well but don't necessarily have the infrastructure to do so. I am now involved in every single lateral interview that we have and we hold our section leaders accountable for the candidate pools that they create for open positions. The firm's recruiting committee, of which I am chair, responsible for law student recruiting and hiring targets additional law schools, participates in various diversity career fairs, and engages more diverse student populations to increase the diversity of our candidate pools. We have several policy initiatives that look at our leadership and credit sharing policies to guard against unconscious bias creep. We are a very progressive firm, but we know we still have work to do, such as collaborating with our marketing department to help diverse attorneys develop individualized business development plans and promote an anti-racist boot camp, as well as unconscious bias and ally-ship training.

Ari Kaplan
Did the firm implement any specific protocols in the past year to strengthen diversity, equity, and inclusion while working remotely?

Jennifer Martinez
We were very well positioned when COVID hit because before the pandemic we had started a dynamic workforce initiative, now called the Agile Workforce Initiative, that recognized the reality that in this modern era, one probably doesn't need to be in the office five days a week from nine to five. We had already transitioned to allowing our professionals to work more flexibly and that policy seems to have really benefitted many of our female attorneys.

Ari Kaplan
How do you expect the Agile Workforce Initiative to impact hiring both lateral and new hires, as well as retention?

Jennifer Martinez
We have hired a number of new attorneys in 2021 and nearly everyone that we've interviewed has identified our flexibility as one of the main reasons they are attracted to our firm. We have heard that same feedback from law students as well. It is not simply a result of the pandemic. We recognize the modern reality that almost everything we do requires sitting in front of a computer. Even the courts have gotten used to a more remote environment. That said, I do think that it is important for us to be intentional about cultivating and maintaining the special culture we have created at our firm, much of which has to be strengthened in person. My worry for some younger attorneys is that they will miss opportunities to learn in the office so we need to find ways to replicate those spontaneous in-person training opportunities. I would like to see the legal profession make a more conscious effort to promote diverse attorneys into leadership positions at firms, non-profits, bar associations, and law schools. It is important to create models that show how many paths there are to success as a diverse attorney to reach the top of that mountain, whatever that mountain may be for each individual. In fact, change is most likely to come and last if we have diverse leaders at the top. It is much easier to create lasting change with a top-down effort, rather than simply having diverse ranks at the bottom of the pyramid. I would love to see the legal profession become more innovative with workplace policies and be more creative with remote working arrangements or varying hours and days of work. The pandemic has provided a window to make some fundamental change and I hope our profession has the 'ganas' to do it.

About the Author
Ari Kaplan (http://www.AriKaplanAdvisors.com) regularly interviews leaders in the legal industry and in the broader professional services community to share perspective, highlight transformative change, and introduce new technology at http://www.Reinventing-Professionals.com and his series at Legal Business World

Listen to his conversation with Jennifer Martinez here:
https://www.reinventingprofessionals.com/driving-change-in-diversity-equity-and-inclusion/

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Meet Chelsea Bonini

Chief Legal Officer, Conscious Inclusion Company

By Heidi Turner, Director of Content at Conscious Inclusion Company

Chelsea Bonini is a fierce advocate for equity, inclusion, and civil rights. Her experience as a lawyer, as a mom of a child with a disability, and a former elementary school teacher enables Chelsea to use her legal expertise and her unique perspective to advocate for change in systems that are meant to serve and support our communities.

As the founder of Kiski Law, P.C., Chelsea advises clients on corporate formation, governance, transactions, and agreements.

In addition to her work as a lawyer, Chelsea was elected as a Board Trustee on the San Mateo County Board of Education in November 2020; she serves on the San Mateo County Commission on Disabilities; and she serves on the Board of Directors for NAMI San Mateo County (National Alliance for Mental Illness). Chelsea also served as a Board Trustee in her own school district in San Mateo, California from 2013-2017. In 2018, Chelsea co-founded Not Without Us, a non-profit that is dedicated to increasing awareness of ableism and civil rights, encouraging community leadership, and creating a seamless and coordinated system of supports for more equitable and inclusionary opportunities and better outcomes in our schools, communities, and workplaces.

Chelsea leads workshops on understanding systemic ableism, becoming anti-ableist, and embracing inclusive and equitable practices in education for Conscious Inclusion Company.

What led you to advocating for people with disabilities?

I have a son who was diagnosed with a disability at age 5. He is now 13, so I've been learning to navigate our educational and mental health systems for 9 years. It's been eye-opening to see the silos in services, the lack of transparency regarding early supports, and the severe gap in crisis supports for children and their families. Early in my journey to ensure that my child was receiving his education, I moved into a place of advocating, learning about existing systems, and seeking opportunities for community input. I also started a non-profit with some friends to provide a source of community support for parents in crisis and to build momentum for systemic change locally and beyond. We realized that the information we had about services, supports and paths forward has been learned by chance, and that many families were struggling with similar issues related to all kinds of disabilities. So now, my work in the public and advocacy spheres focuses on equity, inclusion and accessibility related to human and civil rights for all persons with disabilities and paths to change current practices.

It is more common for the legal system to be used in attempts to uphold civil rights, rather than relying on education, sharing information about resources and rights, and empathy building, but I truly believe that if people know better, they do better. This mindset has led to my work in sharing experiences and creating empathy with leaders in positions to make policy changes, as well as to my own public service. To create long-term impact, we need work together to change our broken systems, not just litigate these issues on a case-by-case basis.

How can organizations create job descriptions that are more diverse?

When seeking diversity in new employee candidates, a company's focus should be on accurately representing the inclusive nature of the company when writing a company profile related to a job description. A focus on the company's inclusive culture is more likely to draw a diverse group of candidates.

It's important to acknowledge that systemic opportunity gaps likely limit efforts to build a

initially *screening out* excellent and diverse candidates who may not have the same experience or may not have attended the top schools from which you typically seek candidates. This will open your access to candidates who are often very qualified and who will be committed to the success of your company.

What are some creative ways to proactively find candidates from underrepresented communities?

If your organization isn't typically diverse, you really need to try new ways of reaching qualified employee candidates. The same efforts will get you the same results, so it's important to think outside of the box.

Companies should focus on building relationships with diverse organizations, educational institutions, and regions outside their scope of typical recruitment practices to proactively find candidates from underrepresented communities.

Tapping into the insights of people already in your organization to find out their ideas, connections, and networks for viable candidates could also be very effective in diversifying your candidate pool.

What is your biggest piece of advice for getting started with diversity and inclusion?

It's important to review and honestly assess your current company culture and hiring practices. If your company has not been able to build or maintain diversity, it's likely because you have some inclusion work to do. It is unrealistic to think that you can create a sustainable diverse and inclusive culture by just assembling people of different backgrounds. Examining why your company is not diverse and inclusive is an essential first step to creating change.

If people don't feel they belong or that they have opportunities to make real impact, they won't stay at your company. Developing a culture of inclusion will support ongoing efforts to retain a diverse and productive workforce.

Conscious Inclusion Company™

You belong here.

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BOOK RELEASE

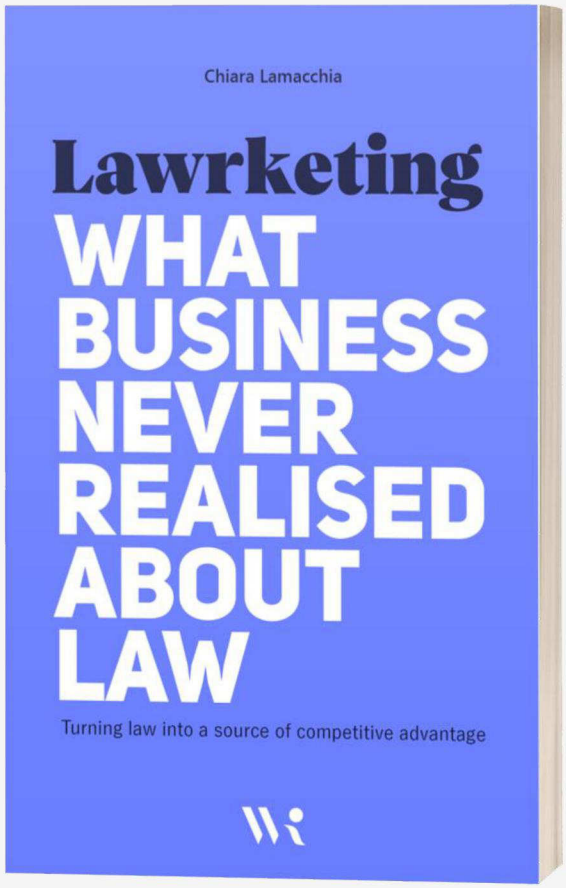
How can a business use law beyond the *legal-as-usual*?

Now as never before, business needs to explore these untapped dimensions of law, and use it proactively to stay competitive, innovative and to gain a strategic advantage.

This is what **Chiara Lamacchia** explores in her new book, ***Lawrketing – What Business Never Realised About Law***.

This brief and to-the-point book offers a provocative and ground-breaking exploration of the legal role with a new business and innovation dimensions.

Lawrketing aims at proactively acting on legal trends in a cross-competences environment, where legal is no more an obscure field, limiting the business, but a whole set of possibilities to enable innovation.



The Author

Chiara Lamacchia is a consultant in legal and marketing, serving global companies, across different sectors, promoting the adoption of innovative ways of using the law for competitive advantage.

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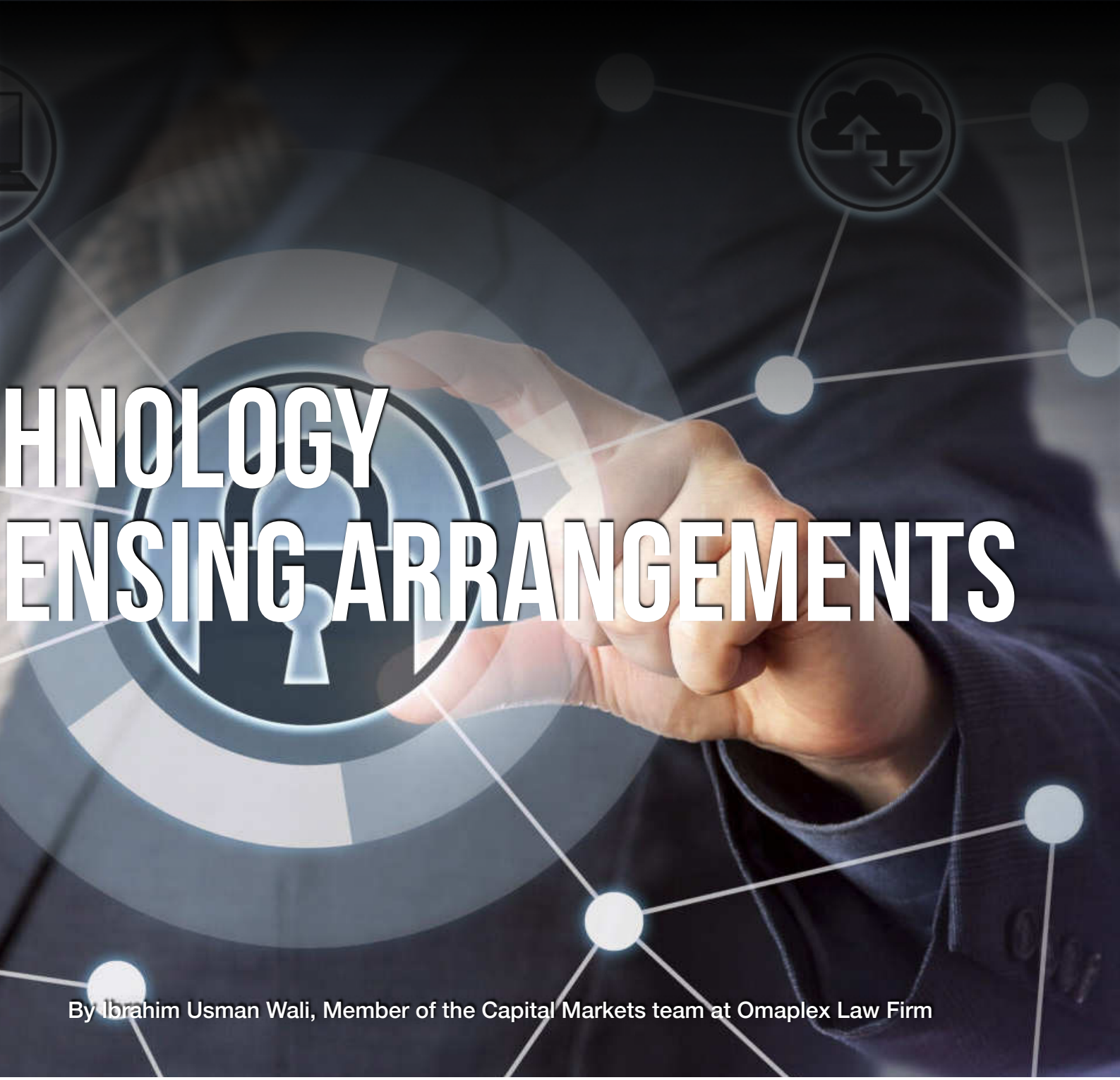
ESCROW AGREEMENTS IN SOFTWARE TEC LIC

Many global corporate arrangements and re-arrangements today are technologically concentrated. Start-ups and corporates alike are being purchased and sold solely for their tech substance. In the tech sector, particularly software, the bulk of proprietary rights are intangible, thereby making them Intellectual Property assets. Just like tangibles, Intellectual Property rights in software can be let via licensing.



HNOLOGY ENSING ARRANGEMENTS

By Ibrahim Usman Wali, Member of the Capital Markets team at Omaplex Law Firm

Software licensing allows a Licensee to legally use software, the usage of which would otherwise have been a copyright breach. A software license grants usage rights to an end-user and defines the scope and extent to which an end-user can deploy the software of an owner subject to consideration.

At the back end of a software is what is known as source codes. Source codes are the original, unfiltered versions of the software as originally written. It is the primary programming language of a computer programme. Writing source codes is the most time consuming and brain taxing aspect of software development.

Under the Nigerian intellectual property regime, source codes are majorly protected under copyright laws. Section 39 of the

Copyright Act [1] defines literary works to include computer programmes, it also further defines computer programmes as '*statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result'*. This is exactly what source codes are.

Software Licensing Agreements (SLA) are the conditioned transfer of a finished software product, or that of the source codes, depending on the circumstance and needs of the parties involved. Many a times, Licensees obtain a license for a software programme, and during the pendency of such license, the Licensor, for some reason, fails to satisfy their end of the agreement by their inability or unwillingness to continue to sustain the programme. Such action may prove fatal to the business of the Licensor, especially if the programme is vital to their operation. This is where an Escrow Agreement, involving a third party depositor proves vital.

A technology escrow, also called a software escrow, protects all parties in a software licensing arrangement by depositing the source code, data and all accessories attached to the software with a third party neutral, pending the occurrence of a stated event.

Software escrows are beneficial to both parties in an SLA arrangement. For the Licensors, it protects them from any potential misuse or disclosure and duplication of the codes by the Licensee. It also allows them to license the software to as many Licensees as possible, as the control of the codes vest with a third party and not a single Licensee. It, therefore, protects their business and allows them to profit from it. For the Licensees, it allows them access to the code which is vital to their business in the event that the Licensor goes out of business, by reasons either of bankruptcy, rearrangement, death (for non-corporates), obsolescence, and other unforeseen circumstances covered in the agreement. In essence, it allows the Licensor to retain their IP rights, while the Licensee gets assurances that the source codes and other related accessories are within their reach.

A software escrow typically involves four steps. The coming together of the relevant parties to the SLA, the escrow agent to design the agreement and identify the release conditions.

Release conditions are those events that trigger the delivery of the codes and related accessories to either of the parties. The owners and other sub-contractors, if any, deposit the materials and all others related to the IP. The escrow agent collects, tests, verifies and stores the deposited materials in a high level storage space. On the occurrence of any specified release event, the escrow agent releases the materials to the designated party, usually the Licensee.

What happens when the SLA expires? The escrow agent either releases the materials to the Intellectual Property owner or destroys them, the terms of which are largely spelt out in the SLA. It is important that the materials are updated timeously whilst at the possession of the escrow agent, as new versions of the software develop. Most modern escrow agents have this system automated and the updates run concurrently.

It is important to ask some preliminary questions before effecting a software escrow arrangement. Is the escrow even necessary? Some of the preliminary assessments necessary before engaging in the money-consuming arrangement include:

I. the likelihood of the vendor breaching or discontinuing its maintenance and support obligations,
II. the financial stability of the vendor,
III. the size of the vendor's operation,
IV. the structure of the vendor's operation (whether a corporate with succession or a sole proprietorship/business name),
V. the importance of the software to the integral operation of your business.

In the event where the software crashes or begins to malfunction, or where it needs to be updated due to the needs of the day, is it essential to have the source code and other related materials like build instructions, system integration design, user interface components, and so on deposited with a third party? If affirmative, then you need an escrow.

Iron Mountain Inc [2], one of the world's leading escrow agents, identified some qualitative assessments to help determine your business's risk level in identifying whether your business requires an escrow. [3] Some of it include; the number of users, customer impact, initial investment, subcontractor partnerships, vendor stability, license fees, installation, restraining *inter alia*.

In conclusion, an escrow agreement is a smart tool for mitigating risks associated with the acquisition of technology, precisely software technologies. By accompanying your SLA with an Escrow Agreement and your data package, you are very well poised to diminish the attendant loss that accompanies software crashes and failures, and this might just save your business.

Notes

[1] Cap C28, Laws of the Federation of Nigeria 2004
[2] https://www.ironmountain.com/services/software-escrow
[3] https://d2dzik4ii1e1u6.cloudfront.net/images/lexology/static/9ac3326d-4fab-46b6-84c9-31ae0443fb5a.PNG

About the Author

Ibrahim Usman Wali is a member of the Capital Markets team at Omaplex Law Firm. He delivers ground breaking advice in mature and growth markets, tech translating to innovative thinking and solutions. He covers a range of security products, including debt and equity, high yield, structured finance and derivatives, securitization, corporate trust among others. He has advised high profile clients comprising global investment banks, SEC and Nasdaq-listed corporates, sovereigns and private individuals alike.

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THE LEGAL DESIGN BOOK
Doing Law In The 21st Century
Astrid Kohlmeier
Meera Klemola
THE LEGAL DESIGN BOOK

Exceeds its Ambitious Title; A Consequential Work

A Book Review of The Legal Design Book by Astrid Kohlmeier and Meera Klemola

By Robert Dilworth, Managing Director & Associate General Counsel at Bank of America / BofA Securities

Internationally renowned legal design thinkers Astrid Kohlmeier (Munich) and Meera Klemola (Helsinki) have just published The Legal Design Book: Doing Law In The 21st Century. (Wolters Kluwer has scheduled a German edition for fall 2021). This work is intentionally focused on use of legal design in commercial contexts, thus should be of great interest to Legal Business World's readers.

This is a highly readable and approachable work; each page is an excellent embodiment of its own principles. The writing style, organization and layout are perfect for a more relaxed setting and pace, for a mind that is ready to reflect and grow. I found this time and money well spent; both would be good investments for any legal professional who wants to evolve with the calling and client expectations in a world of non-stop complexity. I closed the last page enriched; my mind stretched by the power of some new ideas and methods – eloquently expressed by two world-class thought-leaders, supported by highly relatable case studies from industry, law firms, consumer finance, academia, non-profits and others, all richly enhanced by layout design and illustrations from Munich-based designer Tobias Heumann.

Since I am a novice to legal design (in the narrow communications sense that I had first understood), I'll leave the comparisons of other legal design works to practitioners and experts who have read several.

But I am convinced that **The Legal Design Book** is a needed and consequential work; a precious and timely contribution to legal professionals worldwide.

If you have heard of legal design and are curious to learn the concepts, vocabulary, basic tools and methods, then as the title "The Legal Design Book" boldly suggests, this is your primer. The authors' laudable goal is to promote use of legal design to help shape a more transparent legal system in which law is an enabler, not a barrier. This goal also dovetails perfectly with today's accelerated digital transformation of the economy and society – the pace and nature of changes, as well as the need for legal products and services that are more digitalization-friendly.

However, the subtitle is much more telling: "Doing Law In the 21st Century". For "Legal Design" is both a symptom and a remedy. There is no way to discuss the origin and use of these tools without exploring the need that gives rise to them: a recognition that the highly convergent, binary problem solving style favored by many lawyers - a product of classical legal education and law firm training and incentives - is not always fit for purpose versus 21st Century problems and needs. In many ways, our profession's mentality, methods and tools are those of the late 20th century, at best. In a today's world, legal professionals also must adapt with the times and client needs, adding other tools to their toolkit and critically, using discernment, intuition, emotional intelligence, empathy and even a little formal training (which might even come from a non-lawyer !) – in order to know which ones to use first, for which purpose and in which measure. Happily, the authors (supported by research) believe that we all have such abilities – just suppressed or underdeveloped, which can be awakened and nurtured to restore us to a healthier and more effective balance. And that age bears little correlation; that it is a question of openness and willingness to accept new possibilities.

It's commonly said that if one only has a hammer, every problem is a nail. A really good flashlight has an adjustable beam – broad (flood) and narrow (spot). And intensity levels. All based on purpose. Lawyers excel at highly convergent thinking, which is absolutely critical for many problems and phases of a solution. Our hallmarks are a constructive skepticism and keen ability to detect flaws. Sometimes the hammer, spotlight and even a laser are needed. But not always, equally or prematurely.

The authors - gently, non-judgmentally, but effectively - invite legal professionals to look at themselves more objectively, reboot our skepticism so as to keep it always constructive and solution-oriented and open ourselves to broader tools. They ask why do we often jump first to the solution, don't first spend more time fully understanding every angle of the problem, can't see failure as a learning tool, are reluctant to think and test things iteratively, are so risk-averse that we prematurely foreclose creative ideas that could be viable, and rarely sincerely embrace and incorporate pluri-disciplinary and end-client input.

They then show quite convincingly how this is at variance with other professions, businesses, iconic brands and services, etc. that are more successfully adapting to the revolutionary,

transformational changes in general society brought by technology, globalization, multi-generational (now 4) workplaces, more cognitively diverse teams, etc. There, a "build to learn" ethos, extensive user-focused process design and multidisciplinary inputs are part of the DNA and core ingredients of successful outcomes, user delight and brand loyalty. My inferred lesson for my career and that of fellow professionals is that we must recognize and accept that there is no special "lawyers' exception" to this inexorable trend and societal expectation. All of society is transforming. The sooner we accept this inevitability and embrace the challenges, the truer we can be to our mission of service, be more useful to modern society and regain some of our stature.

The work's introduction begins definitionally, treating "legal design" as design used in the legal field to transform products, services, work, systems, business strategies, ecosystems and user experiences. The authors introduce legal design as a potential magic key for an industry under intense digital transformation pressures. Chapter 1 then introduces 10 key philosophies or mindsets needed for success; not all of them first nature to lawyers, e.g., deferring judgment, not letting a fear of failure stifle potentially viable ideas, embracing multidisciplinary teamwork, and deeply involving clients. Deftly like a modern Honoré Daumier, Astrid Kohlmeier and Meera Klemola cleverly sketch today's *confrères*. Who would not honestly recognize among and within us such caricatures such as the educated lone warrior, eagle-eyed mistake finder, failure-phobic, turbo-charged solution-focused unique expert (versus first a devoted problem finder) or non-sharing, siloed lawyer, all endowed with a factory-equipped, but user-disabled, pivot function?

Chapter 2 then develops the notion of legal design – what it is, how it developed and relates philosophically to other design movements (including the social aspects of the *Bauhaus* school). Then the many subsets ("invisible skill sets"), why legal design is best viewed as a multi-faceted end-to-end process and most critically, what legal design is emphatically *not*. The authors skewer a number of common superficial perceptions of things that, while they may be an element of a good design project (such as using graphic design and combining text with icons) are not "legal design" *in se*.

Having established what legal design is (and is not), the authors address in Chapter 3 why legal design is so of the moment, and essential to coping with some of the challenges of our time. These include the intense cost pressures on in-house counsel and their need for service alternatives and efficiency so as to have time and creativity for high-value tasks. As well as the need for processes that are optimized for the transformative digital tools that are rapidly becoming commonplace, so that we can reap maximum benefit.

Additionally, pressure from today's dominant service-focused culture, profound changes in our information consumption preferences, and the increased workforce and client expectations of interdisciplinary cooperation as *de rigueur* – in every other modern field and endeavor. Finally, the need in an exponentially complex world to keep pace with the

incessant complement of equally complex new laws and regulations, master them and explain them effectively to those tasked with complying.

The core of the book, Chapter 4, provides step-by-step, end-to-end practical descriptions of how to successfully realize a legal design project in pursuit of this mission. These include steps to (i) establish the optimal project team and culture, (ii) thoroughly research and understand the problems, (iii) synthesize and define key insights and a working problem statement; (iv) generate and select (shortlist) ideas using a variety of creative techniques that draw on a blend of divergent and convergent thinking styles, (v) prototype and test the tentative solution(s) and (vi) implement the final choice(s). The marvel of this process is that it privileges (and even requires) diverse perspectives and active participation, thereby boosting the likelihood of innovative, viable solutions and enhanced stakeholder commitment at the adoption stage. Throughout this section, attention is sensitively given to interpersonal and ethical dimensions.

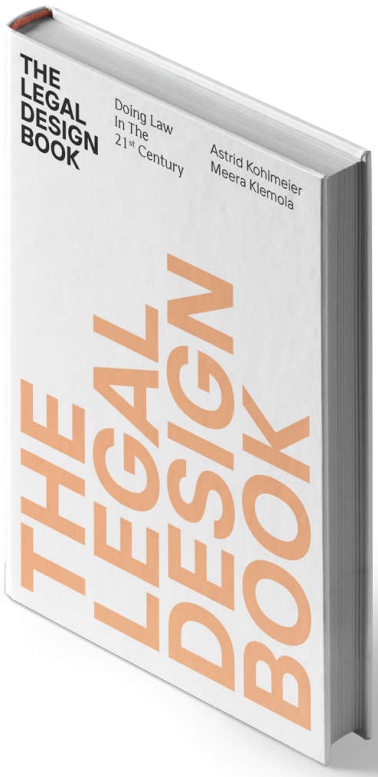
This is followed in Chapter 5 by the cases studies from the fields noted above. Uniformly, users of modern legal design thinking experienced improved outcomes, relationships among stakeholders (including with legal counsel) and even trust between commercially contracting parties. Ample evidence that since so many challenging problems of our age do not arise in isolation – rather have systemic causes – effective, durable solutions also require multiple lenses and skillsets. Having demonstrated how legal design plays a major role in legal transformation, the authors in Chapter 6 examine leading professional profile models, i.e., I, X and T-shaped professionals and the Delta model (indeed dynamic), to see where legal designers might best fit. They put forth a unique floating model based on a hybrid of five skillsets. They then suggest a variety of potential career roles for such professionals in the main types of legal organizations. They conclude this 330-page *tour de force* (text, illustrations, note space, bibliography and index) in Chapters 7 and 8 by focusing on a multi-tiered model of Legal User Experience (LUX) and very practical suggestions for empirically measuring the success and value of legal design projects. Critically, this includes a temporal framework and types of Key Performance Indicators (KPIs) for the most typical categories of re-design projects. Demonstrating value in today's data-driven world is of course vital to establishing effectiveness, return on investment (ROI) and obtaining internal support and funding for future innovations.

If you're legally bi-curious (bi-directional thinking, that is, pivoting based on utility between divergent and convergent cognitive modes), then I heartily recommend that you read this book and incorporate whichever lessons first resonate with your life and practice.

To paraphrase Oliver Wendell Holmes, Sr. (physician, writer, poet, Harvard professor, polymath) "a mind stretched by a new idea can never stretch back to its original dimension". The Legal Design Book will help you awaken some of your dormant DNA.

About the Author

Robert Dilworth is a member of the New York Bar specialized in securities, financial products and derivatives. He is internal counsel at Bank of America / BofA Securities since 1998, currently a Managing Director & Associate General Counsel. He formerly had a similar role at Deutsche Bank in New York and Frankfurt. Robert splits life between New York and Hamburg and is a member of the Liquid Legal Institute, the European Legal Tech Association and the Society of Computers & Law. He is reachable via LinkedIn or e-mail (robert@dilworth.de). He writes above in his personal capacity only.



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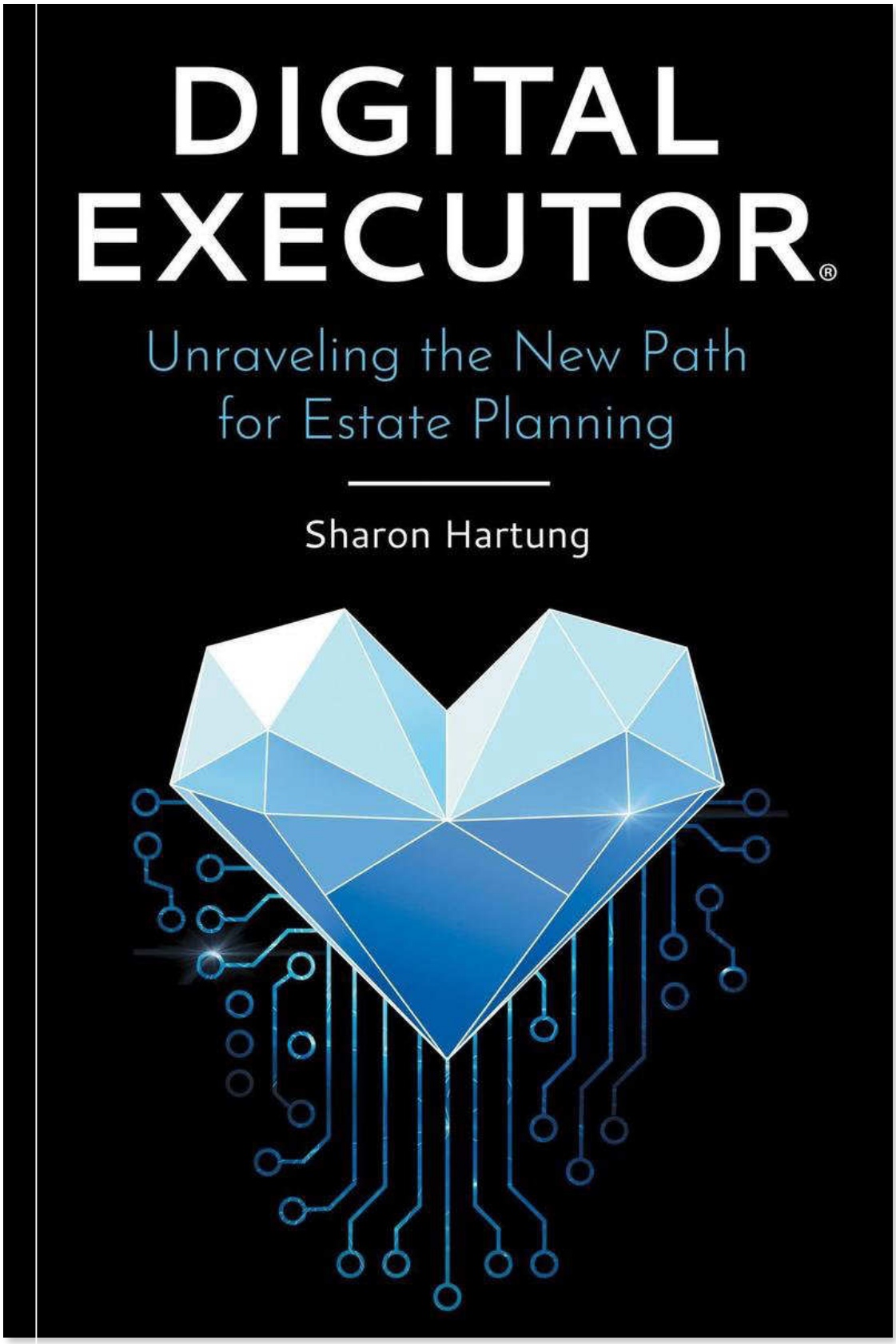
DIGITAL
EXECUTOR®
Unraveling the New Path
for Estate Planning
Sharon Hartung

A Review of Digital Executor: Unraveling the New Path for Estate Planning

By Jason Moyse, Board member of Directive Communication Systems

"We live in the digital era, where technology has transformed how we communicate and engage, even how we die."

That's a key line from Sharon Hartung's second book, "Digital Executor: Unraveling the New Path for Estate Planning".

Sharon's background is as impressive as she is humble which is to say, vastly measured. As a professional engineer, she has an extensive record in IT project management and consulting, having built and maintained large enterprise systems for both public and private sector clients as an officer in the Royal Canadian Air Force, retiring as captain before joining IBM Global Services where she went on to a further illustrious run leveraging her plethora of degrees and certifications for real world execution of complex projects.

She has now moved on to an exemplary encore career which is fascinating and a service to others as she is a member of the Society of Trust and Estate Practitioners (STEP) focusing on digital assets and the "death positive" movement. Her prior book was a consumer primer titled "Your Digital Undertaker: exploring death in the digital age in Canada.".

Her latest offering is focussed more broadly than her home country, and aimed less at the individual "consumer" with the intended audience being the estate advisor community which includes a broad swath beyond just traditional lawyers, tax and wealth professionals and in fact, increasingly, a technology lead set of practitioners as well. Her laudable and stated intention is to raise awareness of estate advisors relative to the impact that their clients' digital footprint has on estate planning.

Sharon usefully delineates between estate advisors and service providers. Estate advisors include the professionals referred to above that are involved in varying measure with estate planning and administration. This can also include insurance advisors, financial experts, trustees, advisors and agents of fiduciaries and increasingly, technology professionals to say nothing of the numerous funeral/death care professionals who have deep expertise in addition to their deft skills managing the ultimate in human and emotional circumstances. Service providers are those businesses, organizations and entrepreneurs who provide technology, platforms and services that allow consumers and businesses to interact online.
There can be little doubt that this book is needed for its practicality, prescriptiveness, and overall snapshot of the current state of play related to death planning and digital legacy. It's a service to all providers which should capture the attention of many, and if nothing else, the reader is left pondering next actions in respect of their own affairs!

I've known Sharon for a few years through my work as a board member at Directive Communication Systems, a platform for estate advisors, service providers and consumers that records digital property, online account and final directives to ensure digital property is visible, accessible and maintained while preventing digital content providers from locking out estates or deleting data. Information is stored with clear and binding user directives *without* using passwords.

In my experience, Sharon is not one for clickbait bombastic prose, even when she points out that more people die from taking selfies than by shark attacks on an annual basis. She's fact based and a voice to be extensively trusted.

Perhaps she should be more "bombastic" or actually "brotastic" akin to much of the nonsense VC-backed, PR-astute startup entrepreneurs who publicly celebrate high-five fundraises, hiring "wins", and "our mission is holier than thou" content.

Being a great marketer is a key skill, but let's not trump (note little "t") actual expertise with unbridled exuberance and potentially misplaced confidence. Sharon's message is rich with practical insight on handling a pervasive yet mostly invisible challenge. It deserves attention.

There is little doubt that a confluence of

factors are happening including the greatest intergenerational wealth transfer in history, coupled with software eating every industry and as Sharon posits, acceleration of all things digital in the estates space via the Covid pandemic.

However, a description of all things digital can and should be further edified as between transformation of delivery of traditional services, emergence of new services altogether, and, of particular interest, the birth of an entirely new class of (digital) assets.

As an example, entrepreneurial will and estate planning providers went with the "do it yourself" model sometime ago with paper based "will kits" which you could buy, believe it or not, at your grocery, pharmacy or hardware store. Most of those kits were "good enough" for low complexity estates. They were often challenged vociferously by lawyers, particularly amongst solo and small firm practitioners, as not only an unauthorized practice of law, but dangerous for the consumer. There are likely survivorship bias examples of people that would have been better served with traditional lawyer driven assistance, although much more expensive. On the whole however, good enough would be good enough for most and perfunctory execution is often sufficient to cover the needed bases.

That area has evolved into other delivery mechanisms which align with the times via online and digital offerings from companies like U.S. based Trust & Will, or Canadian based Willful, who are each enjoying impressive growth and have astute marketers at the helm. These offerings are likely sufficient for most modestly simple estates and are an evolution on the delivery of a service. In some instances, there is no such thing as a "digital will" and a glaring gap for electronic wills registration depending on legal jurisdiction. It stands to reason as an entrepreneurial bet, everything is changing.

However, *digital delivery* for estate planning does not necessarily equate to best practice in handling *digital assets*. Sharon provides helpful definitions from an array of sources in describing digital assets encompassing on-line accounts, photos, videos, social media, intellectual property, and perhaps emerging crypto based currency.

There could be sentimental as well as financial value attached to one's digital footprint and in a gift of succinct summation, Sharon asserts that digital assets are your memories, money and records in digital form. Put more formally, digital assets that are owned by clients have varying rights to use (perhaps by licence) or access. They may be stored either on servers (on-line) or personal computing devices and forms of hardware.

Then of course there are email accounts which are both an asset on their own, but also the key repository for information about physical assets, debts, liabilities and other on-line accounts, as well as key relationship information regarding personal and financial matters. Increasingly, accounts like Google and Facebook are also the conduit to other online services by way of two factor authentication as a login credential – beyond just username and password – to gain access to other digital accounts and services.

So if an email or social media account are digital assets and part of the estate plan itself, what if beneficiaries or fiduciaries can't access the account of the deceased account holder? For that matter, the entirety of a digital footprint or portfolio of digital services are not necessarily going to be discovered, and even when found, aren't necessarily accessible with or without a will.

Before reading Sharon's book, I had two key thoughts around digital assets and estate planning and unsurprisingly, she covered both in well articulated fashion based on an entire adult working life spent in technology. Those thoughts are primarily that there is a Y2K styled cliff ahead, which may not transpire in the benign fizzle of the original and in fact, has woefully insufficient attention being paid to it (much like climate change now being visible after decades of clear warnings). At the same time, this era of contemplation around digital asset management is akin to circa 1995 web life.

In the beginning of any changing tide, there is always an overabundance of fear, uncertainty and doubt. Simultaneously and on the flip side, as any personal development expert will tell you, justified excitement and unnecessary fear are often experienced in the exact same way.

The beginning days of web around the early to mid 1990's were such a period. Everyone knew something big was happening, world changing in fact, and yet we had to endure wildly varied experiences which at times bordered on the comical. The idea of a web page was a static brochure on a screen, rather than a way of dynamically performing a service. Not only were the experiences varied in their quality, so too were the entrepreneurial ventures wrapping around the web in both underlying infrastructure and front end presentation. It would have been impossible to know which business would survive, including the original Amazon selling books over the internet.

That's the era we are currently experiencing in relation to digital assets as a class and the delivery of services around estate planning. A rush of organizations (and venture capital) are bringing life to the death industry. For example, Trust & Will boasts 200,000 customers with a 300% year-over-year increase in transactions and a more than 250% increase in site traffic, to say nothing of a $15M (USD) Series B venture capital round in 2020. They also have partnerships with organizations like the American Association of Retired Persons which is a 38 million member organization with billions in revenue and among the largest circulation of publications in the U.S.

Also of note, and more germane from a digital asset perspective, is their partnership with 1Password, a leading password manager which allows for inventory of passwords which are in turn protected by a single password. Such a vault is capable of being shared with others even if that is not necessarily a good idea. The challenge however, is that mere password sharing is not estate planning. Passwords are not needed at all for the proper transition of digital assets. In fact, it's not advisable although it remains go-to advice from all kinds of estate and service providers who ought to know better.

So what is the invisible tsunami part of the narrative?

The average number of digital services aligned to a single individual is growing exponentially as is the amount and value of data being held. In terms of what happens upon death or incapacity, very few on-line service providers, known as Custodians, have legacy settings (like Facebook) or inactive account management tools (like Google) or a Digital Legacy Program (coming with Apple iOS 15).

For the hundreds of other accounts aligned to an individual without such mechanism, absent a properly executed direction, the terms of service of the site provider Custodian will govern. This is largely a function of the evolving legislation which in the U.S. is known as the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) requiring explicit consent from the account holder to the provision (or perhaps restriction) of access to digital assets, falling which, terms of service reign above all else.

As I presented at the 2019 LegalGeek conference, password sharing is not an effective strategy for digital asset estate planning as that is essentially impersonation. With a properly executed directive, passwords are not required.

Part of the dilemma is that otherwise, power rests with Custodians and their terms of service which you couldn't reasonably review for all of your accounts and even if you could, you wouldn't be able to bargain away any of the terms or negotiate for additions. Today, some terms of service indicate that an account is non-transferable and terminates upon the user's death. On the whole however, at present, 85% of site owners do not have *any* terms that address incapacity or death of the account holder in any meaningful or explicit manner.

The tsunami ahead is also the deluge of lost assets in the coming years as the uptake of the proper transfer mechanisms where they do exist will remain low, and more likely, most beneficiaries will rely on their estate advisor to uncover assets. It's not unreasonable to imagine aggrieved beneficiaries suing their estate advisor(s) for not assisting the decedent in proper planning to provide access to assets from numerous digital accounts.

Most of the time, decedents are likely to leave the fiduciary and beneficiaries in the dark about their digital life unless the advisor follows a number of the prescriptive strategies, tactics and tools outlined in Sharon's book. You'll have to read the book to find precisely what those strategies entail.

An awakening has not really started as noted by Sharon. Among corporate trust companies and fiduciaries, an alarm bell is not yet ringing. It may manifest through demographics shifting as current retired and retiring generations transition to a more digital native cohort. For the present however, consumers, estate providers, service providers and Custodians are still mostly sleeping.

I have such an affinity for Sharon's world view, that I have to stretch to find where I can take an opposing perspective. Regrettably, it's in her optimism on the universe unfolding as it

should. Throughout the book, Sharon suggests that as cases of lost or inaccessible assets mount, and awareness of consumers grows, the demand placed upon estate advisors, service providers and Custodians will require them to change their practices and operating models and they will be forced to stop relying on myths (i.e. password lists) to accommodate the legal and digital reality.

As I surpass 20 years in the legal industry, I've watched the billable hour persist despite its obvious disincentives for efficiency and commercial unreasonableness. Change is not inevitable and the timeline is not fast despite accelerants, even when the purchaser shouts from the rooftop. Incentives and interest drive everything and just as lawyers and law firms lack interest (and obviously incentive) for change -- so too among Custodians who have to protect the rights of all of their users (living and otherwise).

NetChoice, the primary public policy advocacy organization that promotes internet innovation and online commerce with all of the main Custodians as its members, holds the position that estate planners and others risk liability and criminal punishment when advising clients on the improper use of passwords to protect their digital assets and online accounts. Despite this, the member Custodians have failed *en masse* to meaningfully shift their terms of service to address account holder incapacity or death.

Sharon's prowess as a project manager, particularly related to technology, no doubt seeps into her outlook on everything. This is an affliction from which I also suffer. At times, she postulates that what's needed either from an advisor, beneficiary or decedent (while living) is to keep evergreen plans and checklists updated, tested, backed up and and managed on top of having a personal plan akin to the business context with a succession plan for home IT, including dry runs.

To have such a highly structured mindset, even for personal rather than mere business matters, is an outlier among most of the populus as it is very difficult to get traction with large swaths of people to follow in both intention and deeds. The vagaries of humanness get in the way and despite its rationality, too often, life is handled in messy fashion notwithstanding excellent advice like Sharon's is available. People don't think and act like well-reasoned project managers quite so pervasively unless they are freak flag fliers like Sharon and I. All the more reason for people to rely on advisors.

To seek out anything further from Sharon's book which would be ostensibly worthy of deeper critique is overextending beyond the bounds of that which is her strength, well articulated reason. This book is required reading for those in the business of law, wealth, finance and technology planning, wherever digital assets are in play, that could form part of one's digital legacy and footprint. The corporeal may end, but the digital does not.

About the Author
Jason Moyse is a Board member of Directive Communication Systems. His primary focus is

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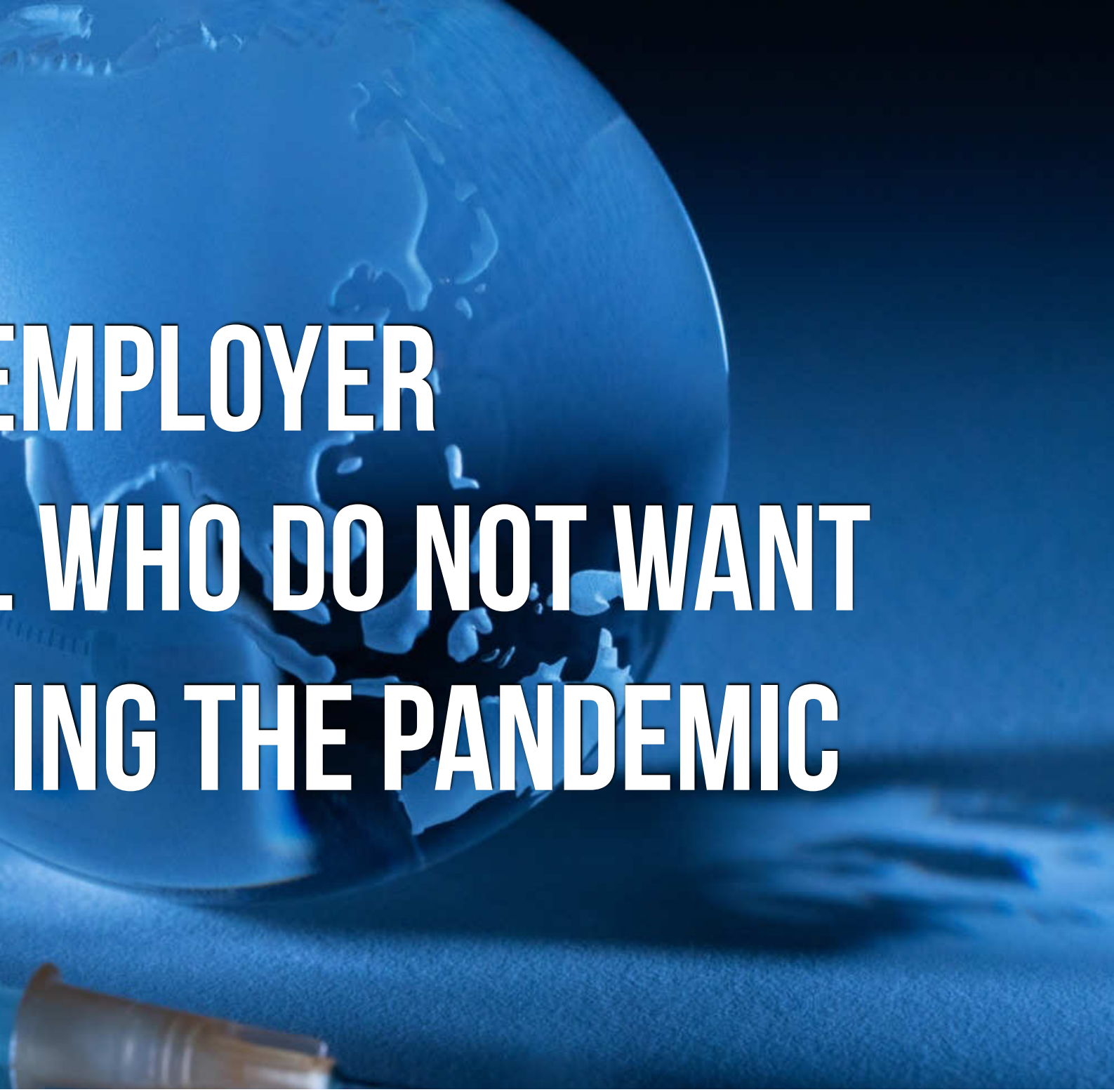
LEGAL STATUS OF THE E REGARDING PERSONNE TO BE VACCINATED DUR

By Esin Sümer, senior associate lawyer at Esenyel&Partners Law Firm

Individual rights and freedoms can only be necessarily limited by the Constitution and laws, for reasons such as public health and safety. However, there is no legal regulation in Turkish legislation that obliges citizens and/or employees to be vaccinated in the midst of the Covid-19 outbreak.

For this reason, it is possible to say that whether or not to be vaccinated is a personal decision, the personnel cannot be forced to do so, and as a result, the employment contract of the unvaccinated personnel cannot be terminated for this; without payment of compensation, no warning can be given to them solely for this reason because not being vaccinated is not a faulty behavior, it is a choice.

However, we believe that the whole event



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should not be viewed only from the perspective of the personnel. In addition to personal rights, there are mandatory obligations both in the Constitution and laws in terms of protecting individual and public health in business life. There is no doubt on the contagiousness of the Covid-19 epidemic and the danger it poses for all individuals, especially in business life. Therefore, the employer is obliged to take the necessary measures on behalf of its employees and customers, and the employee is obliged to take care of the people they come into contact with in business life, along with their individual freedom.

In this regard, the 4th article of the Occupational Health and Safety Law No. 6331 imposes clear obligations on the employer and the 19th article on the worker. Therefore, if the majority of workers in a workplace are

vaccinated and another group is not vaccinated solely by personal choice without a just and valid reason (considering the epidemic, which has no other drugs, etc., only approved vaccines), these personnel are obliged not to endanger the occupational health of others. It would not be wrong to say that it can be considered as a violation.

Again, although there is no application area in this process, the European Court of Human Rights made a precedent decision on 08.04.2021 regarding the obligatory childhood vaccinations in the scenario of a pre-pandemic event, and under certain conditions, a policy in this direction was included in the European Convention on Human Rights. It stated that it is not an inconsistency, that mandatory vaccinations are legal and may be necessary in democratic societies. In this decision, they also stated that they could consider compulsory vaccination to fight an epidemic disease as a legitimate aim for the protection of public health. This ECtHR decision is very important because, according to Article 48 of the ECHR, to which Turkey is a party, all states party to the convention are obliged to comply with the ECHR decisions. However, as we tried to indicate above, the legitimacy of a legal regulation on making vaccinations compulsory in the case of this decision is a matter of debate, and it should not be forgotten that there is no such decision or draft in Turkey yet.

When all the above-mentioned issues are evaluated together, one of the views in the doctrine at the point of what the employer can do in the face of such a personnel, is the written defense of the personnel as to why they were not vaccinated first, and *if there is no justifiable reason for their health (allergy, etc.), their rights will be paid*. We are of the opinion that the employment contract can be terminated for valid reason (severance and notice pay).

However, simply refusing the vaccine will not be enough for this termination to be accepted as a termination with valid reason and for the personnel not to win the possible reemployment lawsuit.

At this point, we are of the opinion that maximum attention should be paid to the issues that we try to summarize below. Because the court will evaluate every event that comes before the court in its own concrete situation and conditions, and will look at whether the termination has occurred for a valid reason or not in the eyes of "that personnel".

- In this case, first of all, it should be checked whether the personnel's position/task is in contact with other workers. Again, absolute care should be taken by the employer to the principle of "termination being the last resort" before termination takes place. At this point, the situation of each non-vaccinated personnel should be evaluated on its own, as examples and what the employer can do until termination can be quite optional.

- Again, in terms of personnel who have not been vaccinated before termination, process management should be established by the employer on the principles of communication and information. Persuasive and encouraging practices should be carried out about getting vaccinated, information should be given that encourages vaccination and the benefits of the vaccine,

publications should be published, various brochures and videos should be prepared, and collective/individual verbal information should be provided by the workplace doctor.

- In fact, employers' incentives such as providing additional benefits to employees vaccinated against COVID-19, granting additional administrative leave, covering travel expenses for going to health centres to be vaccinated, obtaining private health insurance for employees and including the side effects of the vaccine under the scope of private health insurance are also on the agenda.

About the Author

Esin Sümer graduated from Marmara University Faculty of Law in 2008. She is fluent in Turkish and English and is currently a senior associate lawyer at Esenyel&Partners Law Firm.

Esin works in the fields of Litigation and Dispute Resolution, Labor Law, Law of Obligations and Enforcement Law by providing legal consultancy services to domestic and foreign companies.

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Using Storytelling to Engage Your Clients

By Dhawal Tank, co-founder of Build Your Book and Heidi Turner, legal writer and editor

"Once upon a time..."

Just hearing these four words takes us back to our childhood where we were transported away to different worlds of castles, dragons, outer space and other realms.

Those words reveal a common factor we share: we crave stories. For thousands of years, humans have used stories to inform, educate, share, entertain, and connect. Great stories do even more. They inspire, they compel action, and they last across generations.

Our yearning for stories is ingrained. Unfortunately, far too few of us use great stories to make our thought leadership pieces stand out.

While you might spend weeks or even months writing your content, the painful truth is that most people's writing rarely gets read and acted upon.

Why? Often because it's too dry or formal or complicated. People don't remember what they've read, or they don't feel compelled to act on it.

There's no connection to the words. They don't see how what you've written relates to them, so they scan it and move on to the next article.

That's where storytelling can help you more effectively engage your audience, and establish your authority.

Why Tell Stories

Stories however have the power to be compelling while also sharing complex ideas in a digestible way. They're easier to read, remember, and act upon than statistics and data. They also tend to be less formal in their language and engage readers more than dry information.

Consider the average reader you might be writing for. Let's call her Emily.

Emily is constantly pulled in a million directions. She has a family and a full-time job, both of which are demanding. She receives dozens of emails a day. She has a working lunch sitting at her desk almost every day.

She stumbles across an article about something that she knows is important.

***Beep*♫ .**

There goes the email notification. So she takes a look at her email.

Then she gets pulled into multiple "quick meetings." Before she knows it, her workday is over and she still hasn't read that article.

She sighs. She'll just have to finish up later on tonight after the kids go to bed. Her evening is busy with family time, exercise and dinner. When she finally has quiet she has a choice between reading the article or enjoying her favorite tv show.

Exhausted from the day, she picks her favorite tv show and falls asleep.

People might have every intention of reading an article, but when they finally have a spare moment, they need something that grabs their attention. An academic, stat-filled article isn't their first choice, or even their second choice. But something they can relate to is something they'll read, remember and return to.

Storytelling as Marketing

Lawyers often feel that the more formal, stiff, and complex their writing is, the more likely it will be taken seriously. While you might get the satisfaction of writing a serious-sounding piece, you're making it difficult for people like Emily to want to read your work. Academic writing absolutely has its place in some forums, but storytelling can work wonders for your marketing content.

Storytelling pulls people in. They become engaged your content and they want to read more. They want to know how it ends.

Storytelling also helps brand your legal practice as different from those around you. The application of the law is very similar in cases that are alike, and almost every lawyer in your practice area can make the same or very comparable claims to you. It's difficult to stand out.

What makes you different from the others? You, the people who work at your law firm and the clients who come to you. You all have a story, and by telling your story you engage potential clients. When you share a story you enable your clients to see themselves in your content—and better understand how you can help them.

Sharing stories also allows you to humanize your practice. Often, people are uncomfortable contacting lawyers because they have no idea what to expect when they work with you. They don't understand the next steps and aren't sure how you'll help them. You want clients to feel comfortable enough to reach out to you, not scared of you. Storytelling helps them feel more at ease with working with you. They feel as though they know you.

How to Write Compelling Stories

1. Write About People

Because the law is very logical, it can be easy to forget that there's an emotional aspect to the legal industry. But law is a professional services industry. It's built on trusted relationships. At its core, the law relies on people, even when lawyers represent corporations. Those corporations are run by people, and the results their actions—say, of a corporate merger, for example—affect the people who work there.

Storytelling hits people on a human, emotional level. It allows you to appeal to their emotional side while still showcasing the important work you do.

You can make your writing about people simply by focusing more on why you do what you do rather than what you do. When you focus on what you do, you tend to get caught writing the same phrases every other lawyer says about themselves. When you focus on your why, you show your human side—and you give your potential clients reasons to trust you.

When you write your "About Us" page focus on the people in your law firm. Why do they do what they do? Why did they choose that practice area? Why are the clients important to them? What makes them different from other lawyers?

Furthermore, often the answer to why you do it is about people—you do it to help people, to give people peace of mind, to fight for justice for people. This helps your potential clients see themselves reflected in your content. They see themselves as people who need help, or need peace of mind or need justice.

The same is true about awards and accolades. Instead of listing every award or honor you've received, share a story about one that was meaningful to you and what it meant. Readers won't see themselves in a list of awards you've won and shortlists you've been named to but they will see themselves in a story about an award you won for going the extra mile for a client.

2. Write Simply

Shorter sentences are easier to read, understand and remember.

Unfortunately, most writing in law does not adhere to this. Most writing is long, complicated, and cumbersome. Why not use simpler words instead that people use more commonly?

There is an easy way of judging the general readability of your writing. The Flesch Kincaid Reading Ease score evaluates how complex your sentences and words are and grades your document on a 1-100 scale. The higher the number, the easier it is to read it.

Popular novels and even non-fiction tends to be at 70+. This roughly translates to a Grade 8 reading level. Legal writing tends to score less than 20. That translates to a Grade 15 and over level. In other words it is extremely dense and difficult to read and understand.

An easy way to check your readability is to turn on the Flesch Kincaid is to turn on the score in Microsoft Word so you can review it periodically. Here is a quick link where you can learn how to do that. Alternatively, you can use free tools on the Internet by doing a quick search and finding resources to do it.

3. Follow a Format

Your legal thought leadership pieces are about complex topics. However, this framework below will give you an idea on how you can fit it in the framework of a story.

Every story has an opening, a protagonist (the leading character), and a central conflict that the protagonist must face. In facing this conflict, the story reaches a resolution. The final part is closing where the protagonist absorbs the lessons/new life circumstances and moves on.

Adding these elements into your thought leadership writing will make your pieces more memorable and shareable.

Opening

What's the setting or context of your piece? Who is affected by the conflict? What is their background? Who is the protagonist? Keep in mind, the protagonist generally shouldn't be you. The protagonist in your writing should be your client, since they are the one who faces the conflict and challenge. You are simply there to guide them on their journey.

What incited the situation that you're writing about? Was there a new law passed? Is there a customer or change in the political, economic, social climate that compelled change? If so, what is it?

Conflict

Take us into the heart of the conflict. What does this new situation mean for our protagonist? How is impacting their life/business/firm? What options exist for our protagonist to resolve this conflict? Why did they turn to you

Resolution

Share your ideas on what can bring about a resolution here. Show your expertise and authority to give us a sense of what's possible. Tell us what this resolution looks like for the protagonist, and what it took to get here.

Closing

What are the personal, financial, emotional, social, economic, political implications of our protagonist going through this conflict?

While this structure seems simple, if you start putting your ideas through it, you will find more readers engage with your writing more deeply.

You will notice many popular movies and novels often start the story from the middle and then take us to the opening of the story. Remember, the above is just a framework to put structure to your core ideas. How you present them is up to you entirely.

4. Use Stories Across Your Law Firm Website

Many people avoid sharing stories on their website for a variety of reasons. They worry that the stories are too long, or have too much information to keep people's attention. They also worry that in sharing the story they give away too much personal detail and violate privacy or confidentiality.

There are ways to share stories without violating privacy. You can ask your clients if they are okay with their story being shared. You can also share the general details without getting specific. Instead of writing that your client owned a small clothing boutique that focuses on vintage clothing in the south side of your city, you can simply write that your client was a local small business owner.

Stories don't have to be long. You can share a 1,500 word story on your blog, but you can also tell an effective story that's only two or three sentences long. You can share stories on your blog that dramatize a court case to highlight a recent court decision. Or share a story about how you helped a client during a particularly complex or stressful time.

Use stories to lead into a more fact-oriented page, such as an FAQ page. Instead of writing, "Here is a list of our most frequently asked questions" consider opening with:

"If you've been injured in a car accident, you likely have many questions running through your head. You might be concerned about whether you'll be able to work, if you'll have to deal with the insurance company, and whether you'll need intensive medical care. While we can't tell you what medical care you'll need, we can help you by taking care of paperwork, phone calls, and discussions with insurance companies so you can focus on the most important thing, your recovery. Here are some other questions we can answer for you. Contact us today to find out how one of our experienced personal injury attorneys can help you during this incredibly stressful time."

That opening paragraph still allows your prospective clients to see themselves in your content. It also gives you a chance to write about what you do, but in a less formal way. And it shows that you understand them and what they're going through.

5. Show, Don't Tell

It's important in your storytelling to let your prospective clients come to their own conclusions about you—and they will if you've told a good story. Don't tell them you're a dedicated lawyer who goes the extra mile for clients. Show them by sharing a story where you went above and beyond. In reading the story, your ideal clients are more likely to relate to your other clients and decide for themselves that you are the best lawyer to work with—without you having to tell them so.

It means nothing if you tell them you do something, but if you show through examples they have proof that you do what you say you'll do.

6. Use Client Testimonials

A great way to include stories on your website and in your marketing is to use client testimonials. Many client testimonials take the form of a very short story. They start with their problem, how you handled it, and what they love about how you helped them. This form of testimonial works on many levels because it's engaging for readers, it provides proof that your clients like your work, and it acts as a review of your services for other people.

By following the above tips and using storytelling in your marketing content, you can authentically set your practice apart from the rest, engage with your ideal clients and grow your business.

About the Authors

Dhawal Tank is the co-founder of Build Your Book, a training consultancy that advises leaders at law and accounting firms across North America. He has spent a decade working in branding, business development, and marketing to grow tech businesses from $0-$1 million and beyond. He now focuses on coaching lawyers and law firms with best practices from other industries. He lives with his wife in Dallas, TX.

Heidi Turner is an award-winning legal writer and editor. Since 2006, she has helped her clients in the legal industry—including lawyers and law firms, legal technology companies, and legal SaaS organizations—connect with their target audience and establish their authority. She helps her clients find authentic ways to engage their audience and build a reputation, with a focus on client-centric communications.

In addition to her writing and editing work, Heidi is an instructor in Simon Fraser University's editing program.

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WOW Legal Experience

Legal Design Agency

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WHY YOU *Need to i*

The legal profession can be challenging because it requires deep knowledge of the subject, analytical skills, and the ability to defend your position. A popular concept is T-shaped lawyers, which are those who have highly developed soft skills. Modern lawyers would also greatly benefit from working hard on self-development, rather than just memorizing laws and cases.

Improve NETWORKING

AND BE OPEN TO BECOMING TOMORROW'S BEST LAWYER

By Inna Ptitsyna, PR Manager at Lawrina

people and the laws. That is why developing communication and networking skills is vitally important for their career growth. However, there also are many challenges in the legal community, which is often quite conservative and exclusive.

We believe that fostering a more open and approachable culture would benefit not only the development of lawyers, but also create new opportunities for them. Let's focus on how to become tomorrow's best lawyer!

"Being a part of a community is one of the most important aspects of career building." Jameson Dempsey, Global Director at the Legal Hackers, an international community of legal innovators

Participation in the professional community will help you in the following ways:

1. **Gain Knowledge About Specific Areas.**
   Being a part of the lawyers community helps with problem-solving on the intersection of law and technology. In such communities, people can all come together and share experiences and opportunities - everything from finding a job to starting your own company.

2. **Develop Your Leadership And Organizational Skills.**
   By working on projects or volunteering, you can become a leader. That is why many communities also have student departments, which allows more students to become leaders very early in their career.

3. **Create Wider Networks.**
   This is a powerful tool because we live in a much more mobile society where people travel often. Therefore, if you travel to another city, you will automatically have a network of other people who are working on similar tasks as you. This provides you with an opportunity to collaborate with a network of people to talk about ideas, spot opportunities, and work on and seize those opportunities in your career.

When it comes to networking, there are a couple things to remember:

1. **Be your Authentic Self**
   It is important to be holistic in the way you represent yourself to others. Do not create an online self and an offline self, just be your true self. People appreciate the sincerity and openness that are so lacking in the age of digital communication.

2. **Share Your Knowledge**
   You need to provide value to community members and your colleagues. Share your knowledge or interesting information that you come across on the internet to create resources that would be helpful for someone else. Don't just promote yourself or sell things.

This brings us to a final concept, which is the idea of openness for lawyers, both in terms of inclusivity and also sharing. An open culture for law is important for at least three reasons:

1. **A Great Opportunity To Leverage Technology And Principles Of Design.**
   Historically, the legal system has been built largely by lawyers, and has been supported by other lawyers. One of the great recent innovations is to engage non-lawyer professionals as technologists and designers to be a part of the problem-solving process. Thus, we can create new solutions and make the legal system work better for everyone.

2. **An Open Culture Benefits Legal Education.**
   Legal education has been behind walls; one needs to be part of a school, and the knowledge is kept away from the broader public. Ultimately, we all have an obligation to understand the law and to follow the law. This is important because the le-

be some of the most complex issues that we come across in our lives. Therefore, it's important for everyone to understand what the system is like, how it works, what to expect, and when you need legal help. So, the more educational resources that are available, the better it is for the average person because it allows them to understand the way the legal system works.

3. **Improvement Of Access To Justice.** Another significant issue is free access to law, which is a popular topic these days. It began with the Cornell Legal Information Institute (LII) in 1992. The LII is a non-profit that provides free access to current American and international legal resources online. Since then, there has been The Free Access to the Law Movement (FALM) all around the world, which is the idea that people should have access to the laws that govern them. The internet provides a great tool to enable access to the law.

An open culture will enhance lawyers and the legal system by enabling lawyers to see problems from even more perspectives, leading to innovative solutions. This allows other professionals, such as designers and technologists, to be more integrally involved within the system. That is why it is important to have free access to law and be part of a community which shares the value of openness.

About the Author
Inna Ptitsyna is the PR Manager at Lawrina, the legal portal that provides free access to U.S. law and builds a community around lawyers. She is also an ambassador at the Legal Hackers - international community that explores and develops creative solutions at the intersection of law and technology.

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Turning Outside Counsel Guidelines Into a Data Analytics, Diversity & Cost Savings Platform

By Catherine Krow, Founder, CEO, and General Counsel of Digitory Legal, and Gregory Kaple, Senior Director, Legal Business Services, Kaiser Foundation Health Plan

As COVID-19 took hold of the healthcare industry this past year, health plans faced multiple challenges that went well beyond caring for patients. One of these was how to manage major and unforeseen downward pressures on budgets. Mark Zemelman, general counsel of Kaiser Foundation Health Plan (KFHP), and Greg Kaple, senior director of KFHP Legal Business Services, seized the opportunity to find efficiencies by building on their past efforts to promote affordability, diversity, and quality of legal services through a data-focused approach to updating outside counsel guidelines.

The KFHP Legal Business Services team had asked industry experts to evaluate their current guidelines and operational performance using a standard data set of matters, invoices, and timekeeper information. The results showed opportunities to generate additional savings by utilizing focused project management and analytics of legal matters.

KFHP Legal selected Digitory Legal to help them upgrade their Outside Counsel Engagement Guidelines to Version 3.0, taking them from operational to analytical. "The experts at Digitory Legal were advanced in their insights into our guidelines and data," Kaple said. "They quickly showed how using clean time-entry data leads to more than just adjustment savings. It becomes a foundation for managing all aspects of a case: cost, quality, and diversity."

KFHP legal has seen immediate savings of 10% and has positioned itself to leverage data

for greater spend reductions in 2021 and beyond. Most importantly, the KFHP team uses its data to move the needle on diversity and inclusion by examining outside counsel's allocation of career-advancing work.

Generating Insights & Facilitating Adoption

“To achieve the desired results in the next update, KFHP Legal's team needed to simplify adoption and enforcement, align the guidelines with proven practices for cost management, and focus on collecting high-quality billing data to provide actionable insight to KFHP's Legal Department," explained Catherine Krow, founder and CEO of Digitory Legal.

KFHP Legal cut the previously encyclopedic, 70-page guidelines into a crisp,16-page document with digestible sections targeted to specific audiences and a "What's New" summary of changes. This made Guidelines 3.0 easier for everyone to learn and adopt.

The KFHP team also released a modern online portal through which outside counsel could find Guidelines 3.0 sections, view training videos, access FAQs, and open tickets to request help. "Making the guidelines easier to adopt and enforce is a key strategy for reducing internal and external administrative workload," Kaple explained.

Improving the quality of data was another key focus of the guidelines update.
"Our team collaborated with Kaiser to clearly explain the data-quality expectations within the new guidelines, including very precise 'Do's and Don'ts' for timekeeper narratives, block billing, and coding," said Krow. "By improving overall data hygiene, both Kaiser and its outside counsel will be in a far better position to leverage data for business decisions and diversity initiatives in the future."

Laying the Groundwork

The Zemelman-Kaple duo was well-positioned for this latest innovation after having centralized the legal fees budget for all KFHP regions and operations in 2017 and releasing the second version of their Billing and Staffing Guidelines for outside counsel. In doing so, they successfully held fees flat while maintaining the highest standards of excellence. They then rolled out a new e-billing system in 2019, positioning the legal department to support the enterprise in 2020 by releasing Guidelines version 3.0.

Making Guidelines 3.0 work meant engaging internal stakeholders—leadership, attorneys, and assistants—in a process that included education, input, and adoption. The Legal Business Services team and Digitory Legal successfully used a visual infographics

communication strategy to engage each audience.

The team then delivered a rollout with engaging, game-themed training sessions tailored for its in-house and outside counsel with subject-specific video vignettes and a feedback period before strict enforcement began in October.

Rollout and Results
The legal department has recognized immediate savings from enforcement of the new guidelines and is seeing new value by leveraging data to track task/activity-level costs, such as summary judgment motions and individual depositions.

"These guidelines reflect the importance of data for legal project management," Kaple said. "Accurate, timely, and detailed data allows us to direct our firms to align the right talent with the task for the optimal quality, cost, and diversity."

KFPH legal has had a long-term commitment to assigning matters to minority and women-owned firms. Guidelines 3.0 advances this commitment to diversity and inclusion by supporting diversity at the timekeeper and assignment level of work.

"With high-quality data, we can take action to fix implicit bias at the source, which is at the firm staffing and work allocation level," Kaple said.

The KFHP guidelines initiative has transformed a cumbersome rulebook into actionable data analytics to drive budgetary efficiencies and social change – positioning KFHP as an industry leader long into the future.

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(This article was also published in ACC Legal Operations Observer)

Gregory Kaple

Being data focused as a legal team, is being future focused

By Anna Lozynski, award winning executive general counsel & author e.a.

If you can't measure it, you can't see it – Bréne Brown

Want to truly harness your innovation power, well then, I need to introduce you to the wonderful world of data.

We generate insights and integrate data into our everyday lives both knowingly and unwittingly. From DNA tests, targeted ads, programmatic media buying, wearable devices (think FITBITs, tech togs, yoga tights, UV patches, smart watches), to sharing your geolocations and whereabouts on maps.

Remember Facebook's Cambridge Analytica scandal?
Whether you like it or not, you are a walking piece of information. In the information and digital ages, we each leave a potentially insightful sprinkle of data everywhere we go. To quote the lyrics of Australian singer Deborah Conway - "It's only the beginning".

When I released my first e-Book Legally Innovative in 2018, data and analytics was like teenage sex. Everyone was kind of talking about it, but nobody really knew how to do it, so everyone claimed they were doing it.

In 2021 know this about big data: analytics will drive major innovation and disrupt established business models in the coming years.[1}

Organisational structures and processes are set to expand to include and accommodate teams of data analysts, data scientists, data engineers and Insights-as-a-Service specialists to help companies capitalise and transform it into valuable insights. The demand for data gurus will make recruitment headlines.

Data is the Next Best Thing to Chai Lattes

Increasingly, data is becoming a company's strategic asset class.
Our virtual movements are golden fodder for marketers, consumer insight-ers, and data miners such as Amazon, Facebook, Microsoft, Google and any other future focused company seduced by this influential new commodity.

It's also surfacing as the cornerstone of any best practice in-house legal function.
As General Counsel and individual contributors, we may have a strong intuitive and qualitative understanding of the volume and sources of work flowing into the legal team, and that the team is generally always "busy".

Yet it can be a challenge (or even a battle) to convince our CEOs and CFOs of our actual productivity, to easily write that business case, quantify savings or simply speak in a language that resonates with our business colleagues across all levels.

I love a chai latte, but I'm obsessed with the power of data.

Data has changed my working life. It gives me a live snapshot and insight into the hive of activity and productivity that is a legal team.

So I find it interesting that a) law firms who are sitting on a wealth of data are not better utilising it to gain a competitive advantage, and better using it for their PR & Comms purposes; and that b) there aren't more in-house teams being data focused.

Most legal teams have some basic quantitative analysis they track, typically focused around budget in terms of external law firm spend, cost savings benefits of having in-house lawyers, and perhaps a list of settled cases or debts recovered (often used to show how the legal team is saving the business money by avoiding litigation).

But, that is what I call defensive data. In today's data driven and ROI (return on investment) focused business world, I would suggest those reference points are not enough,

particularly if your audience is not legally trained.

Dynamic data is what you want.

I can appreciate that most in-house lawyers never want to go back to planet billable unit. Productivity and performance management doesn't have to track time, and still capture a great picture of the team's effort and output. Data collection can be simple yet tell a far more sophisticated story than a time sheet. The information feeding into the data dashboards can be cut up in various ways, and used across a myriad of communications with various stakeholders, as well as any business cases.

What convinced me to flirt with the prospect of data collection was two things:

- First, the penny finally dropped about the parallels between an IT helpdesk and a legal function. That is, a legal function is a helpdesk of sorts, and is similarly capable of collecting and presenting data about its operations which is something IT teams have been doing for decades.
- Secondly, in 2016, the winner of the Association of Corporate Counsel Corporate Lawyer of the Year Award won because of the sophisticated data collection initiative she had led. It inspired me to no longer ignore my instincts about how important data was going to be to #lawyerlife, and so I was finally ready to commit to working with data.

So, if you too are ready to take your relationship with data to the next level, here's some advice.

I will not judge you for stealing a KISS on your first date with data.

It will be less overwhelming if you Keep It Simple, Stupid. If you find yourself getting carried away, and injecting too much lawyer into it (because the possibilities do span wide when it comes to data), come back to the fact that data collection needs to be sustainable and easily integrated into the day to day of a legal function.

Mindfully consider the process and number of data variables to ensure the collection or entry process is as quick and painless as possible, and depending on the purpose (you may have multiple).

Data is a must have when it comes to building business cases for investment into legal tech.

The next thing I want to put on your innovation radar is that the IT team is definitely a necessary companion for your legal innovation journey.

A quick coffee with your IT colleagues could lead to being granted access to existing software licences as well as to a few hours of an IT resource to help configure the legal team's dashboard, if you want to build your own. As your comfort and data needs evolve, your data collection could extend to launching a fully-fledged legal matter management software.

If, Data is Business Friendly - make it your new best friend

Individually, and as an in-house legal community, we know how valuable lawyers are. At the same time, we are not doing all that we can to articulate that to the business in a way that resonates with them. Data ensures your legal function is "seen" in all its dazzling and hard-working glory. Let's not continue to learn the hard way by, as one example, not being able to justify additional resources, because we don't have quantifiable insights at the ready to share. Let's stop talking about our value defensively on legal panels at conferences, or indeed with our business stakeholders.

Do not let cost be a barrier to entry either. If you do indeed piggyback off existing IT software, no budget may be required. For the rest, passion and commitment to your relationship with data may be all that is needed.

Use Data to communicate your performance story

Yes, the struggle to curate and collect data may be real, as it does mean adding a little data entry time to your everyday no matter how senior you are.

But, trust that the effort will be both gratifying and validating. Data can raise the consciousness of your business colleagues about how much pressure the legal department is under at any given point. It may also serve to explain a perceived responsiveness issue.

Conversely, it can help the legal team shift towards becoming more focused on allocating their time and effort to what is business critical. Knowing where the churn is and how much volume it drives, together with an appetite to improve that, is all a step in the right direction towards transformation.

Further, don't forget to tap into the insights available from all of your stakeholders, internal and external. Data from an internal stakeholder survey can provide a legal function with valuable insights. Data drives "value creation" opportunities: how is the team perceived, what are their strengths and areas for improvement, and what is the overall satisfaction rating which can then be used as a benchmark moving forward.

Consider surveying your external legal providers too, as this can also be insightful. Plus it's doing things a little differently which might be refreshing for these relationships, and make them feel more of a two way street. Law firms do not often get asked for feedback about how their clients are faring, or get to rate them!

Data may also give you the impetus to implement some SLAs (service level agreements) across the business. These SLAs can help you define when, how and what kind of legal work does and ought to flow through the legal function. Side note - A service level agreement with your business colleagues need not be a boring traditional agreement, it can be a good looking and "on brand" grid or matrix.

All in all, us in-house legal peeps need to ensure we "don't be 2000 and late" as chimed by The Black Eyed Peas when it comes to the legal figures.

Data is more of a game changing perfect match with a legal function than any sceptics may have you believe, and it's definitely worth the investment and effort. It gives you a dynamic perspective, it allows you to do a "live cross" to report a dazzling story about the team's performance.

And those innovation fears? Data can help allay your underlying concerns about taking that bold step towards innovating or transforming the way the function delivers legal services. Because, numbers don't lie, in and outside of a business case for transformation.

[1] https://www.gartner.com/doc/3810464/-planning-guide-data-analytics

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Karol Valencia


Luis Urbina

INTRODUCING WOW LEGAL EXPERIENCE

"Legal Design Agency"

WOW Legal Experience is a Legal Design agency oriented to optimise the legal ecosystem, which is a very complex system formed by different analogue and digital components that are often designed with a legal-savvy end user in mind when in reality, most of the time, the end user and on whom the consequences of the design of the components of the legal system have an impact are ordinary people who do not handle these complexities. Recall that Legal Design is a mindset that involves research to imagine how the system could work better, specifically by preventing or solving legal problems. The results of this analysis manifest in tangible actions, always aligned to access to justice (A2J) and easier law. Legal Design involves several disciplines, obviously highlighting design and law.

As an agency, what we do is apply diverse methodologies, technology and the different disciplines involved in user experience to create and co-create WOW (memorable) experiences for those who interact with the products and services we work with. We become "partners" to the business, helping to improve and simplify it. We do this by working with our clients to understand their goals, visions, and ideas and transform them into design concepts that are memorable and effective, and create an emotional response at the level of desire for consumers.

At WOW Legal Experience we believe that the basis of any change in mindset and transformation is self-discovery and why change is necessary, which is why we have worked on different training projects with various teams, both legal, entrepreneurial and IT, seeking to identify opportunities for improvement to develop better products and services for their internal and external clients.

We make a diagnosis based on data and meetings with the teams to see the current situation, and based on this we propose points for improvement, design and redesign. This includes document improvement (not just contracts), process improvement and redesign, with a focus on user experience and application of available technologies.

We have worked with organisations such as Clifford Chance (IT team workshops), the Society of Law and Technology (courses in Legal Design and Service Design), the Observatory of Lawyers in Argentina, the Catholic University of San Pablo in Peru,Lawgic Tec Association, and the Presidency of the Council of Ministers, also in Peru. We are currently working with the College of Notaries of Peru and with a court. On the other hand, our team lectures at universities, writes or collaborates in different publications in well-known publishers and media such as Thompson Reuters, Legal Business World, among others. Finally, we participate as jurors and participants in different hackathons worldwide.

Behind WOW are Luis Urbina, who is an IT engineer and MBA, with a lot of knowledge of the sector and its pains, and Karol Valencia, lawyer and potential designer, who bring the knowledge of the sector and the hybrid profile of design. Both are on a mission to create WOW experiences within the legal ecosystem.

To contact us, write to our social networks as WOWlegalx or WOW Legal Experience: Linkedin and Instagram, or write to us at: karol@karolvalencia.com. We also invite you to read our blog on Medium.

THE LEGAL DESIGN BOOK

Doing Law In The 21st Century

Written by leading experts in the field, Astrid Kohlmeier and Meera Klemola, The Legal Design Book: Doing Law in the 21st Century is the go-to guide for any changemaker seeking to understand the topic and apply legal design in their daily work to elevate experiences in law and beyond.

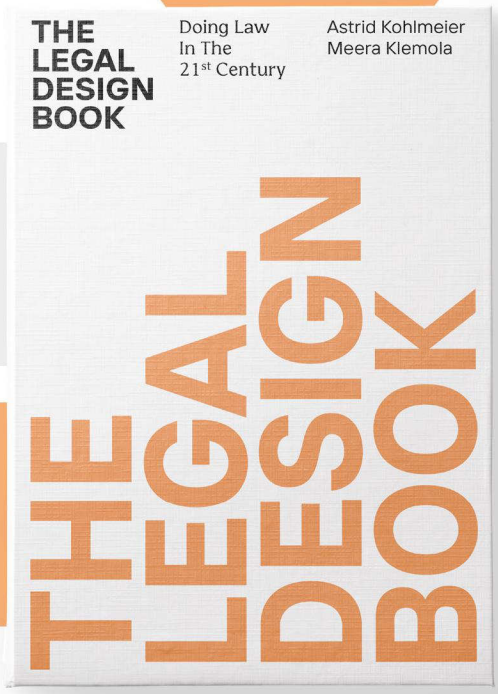
The Legal Design Book takes a practical approach and does not stop at the What, Why and How of legal design. The authors' identify ten groundbreaking legal design philosophies and deep dive into the topics of impact and measuring the business value of legal design. In addition, the book unpacks the role of legal designers in the future and also includes use cases by world-class clients' and contributors from leading companies, universities and law firms.

"It was important to not only share how to do legal design, but that the book itself embodies legal design philosophies. This is why we created a book that is engaging, easy to understand and of course useful."

Astrid Kohlmeier & Meera Klemola

Rich and insightful content is accompanied by modern aesthetics and vibrant visualizations by Tobias Heumann creating a revolutionary legal textbook.
A true pleasure to read.

THIS IS NOT A STANDARD LEGAL BOOK



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with many more retailers coming soon.

Full details about the book along with direct links to purchase and bulk orders can be found at
www.legaldesign-book.com

THE LEGAL DESIGN BOOK

The Authors

Astrid Kohlmeier is a lawyer and consultant for legal design based in Munich and has been combining law and design for over 15 years. From 2002 - 2012 she was head of marketing & communication in a litigation funding subsidiary of Munich Re. For the last 8 years she is working as a legal design expert and consultant for legal inhouse departments and law firms, such as Clifford Chance, LinkLaters, Airbus and many more. Awarded as „woman of legal tech" she develops user centric solutions and legal services with focus on the digitalization and digital transformation. Astrid is member and lecturer of the Executive Faculty at the Bucerius Center on the Legal Profession, co-founder of the non profit organization „Liquid Legal Institute", speaks at conferences, publishes and works with an international network of legal designers. She has an education in law and media design.

Meera Klemola is globally recognised as one of the pioneering voices in Human Centred Design for legal professionals and legal business. Dubbed by The Legal Forecast as one of the first 'Legal Designers' and the host of the world's first Legal Design Summit, Meera continues to lead and actively contribute to the discourse on the evolving role of design in law. Meera is a trusted advisor to some of the largest brands, law firms and in-house legal teams. She also co-teaches with professors at law schools, is a frequently requested keynote speaker at global innovation conferences and company retreats and is a contributing author to various platforms on the topics of design in law, modern work and leadership. She holds multidisciplinary qualifications in law, design management and business.

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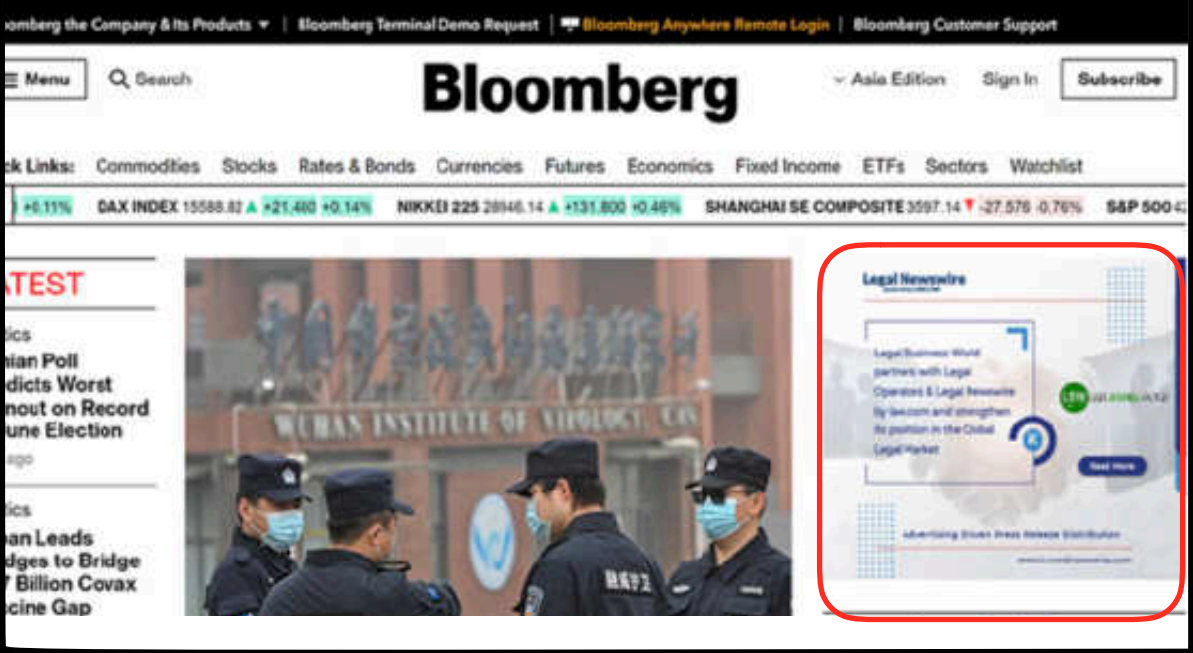
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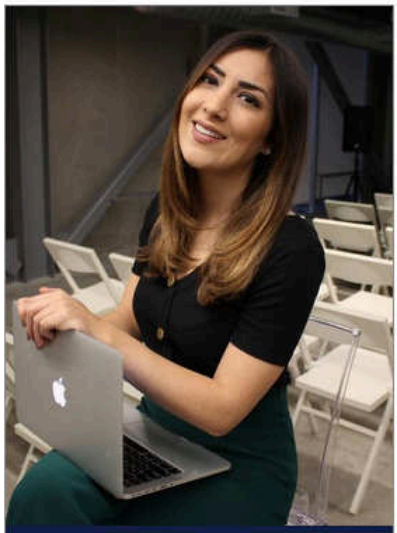

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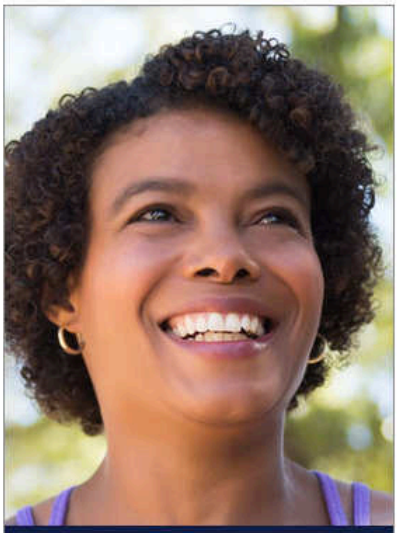

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